

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals

Board of Registration in Medicine,
Petitioner

v.

Docket No. RM-20-0229

Mrugeshkumar K. Shah, M.D.,
Respondent

Appearance for Petitioner:

Patrick G. Fitzgerald, Esq.
Board of Registration in Medicine
200 Harvard Mill Square, Ste. 330
Wakefield, MA 01880

Appearance for Respondent:

Pro se
809 Clack Dr.
Garland, TX 75044

Administrative Magistrate:

Kenneth J. Forton, Esq.

RECOMMENDED DECISION

On May 8, 2020, the Board of Registration in Medicine issued a Statement of Allegations against the Respondent, Dr. Mrugeshkumar K. Shah. Dr. Shah was licensed to practice medicine on October 24, 2001. However, his license lapsed in 2004, and he has not practiced medicine in Massachusetts since then. The Board seeks to discipline Dr. Shah for a series of violations tied to his April 9, 2019 conviction for conspiracy to pay and receive health care bribes and kickbacks, offering or paying and soliciting or

receiving illegal remuneration in violation of the anti-kickback statute, and aiding and abetting. He was sentenced to 42 months incarceration that he is now serving. On June 27, 2019 the Texas medical Board suspended Dr. Shah for his criminal convictions.

On May 22, 2020, I scheduled a pre-hearing conference for July 1, 2020. The Petitioner appeared for the conference, but Dr. Shah did not. On July 2, 2020, I ordered Dr. Shah to show cause why a default should not be entered against him for his failure to appear for the conference. I also ordered him to file his answer, as he did not do so by the 21-day deadline. *See* 801 CMR 1.01(6)(d). I also ordered Dr. Shah to choose whether he wanted an evidentiary hearing or would rather proceed on written submissions.

On July 28, 2020, the Board informed DALA that it made contact with Dr. Shah, that he wanted to represent himself, and that he planned to answer the Statement of Allegations no later than July 31, 2020. The Board sought another pre-hearing conference and hoped to negotiate a Stipulation of Facts and then proceed with an evidentiary hearing to resolve any remaining issues of fact and mitigation. On July 29, 2020, Dr. Shah answered the Statement of Allegations and assured DALA that he wanted to participate in the appeal.

On August 10, 2020, I ordered the Board to file a status report no later than September 30, 2020 informing DALA of the progress the parties had made on negotiating the Stipulation. On September 30, 2020, the parties filed a joint status report, which included a stipulation of facts, outstanding issues for hearing, proposed exhibit lists, and proposed witness lists.

On October 16, 2020, I informed the parties that (1) I would adopt the joint stipulations of fact that the parties submitted in their status report, and (2) as Dr. Shah did not plan on calling any witnesses and planned only to submit “letters of character, support, and mitigation,” I had determined that the matter could be decided on written submissions under 801 CMR 1.01(10)(c). I ordered the parties to file briefs and any further documents they wanted considered no later than December 4, 2020. On November 27, 2020, the Board requested to extend the deadline for filing written submissions to a date after March 18, 2021, when Dr. Shah was scheduled to be sentenced by the Court. On December 2, 2020, I allowed the motion and ordered the parties to file their briefs no later than April 16, 2021.

On April 16, 2021, the Board filed its brief, which it styled “Petitioner’s Motion and Brief in Support for a Summary Decision.” The brief included six attachments, which I now enter into evidence:

Exhibit A: Texas Medical Board Order, dated October 18, 2013;

Exhibit B: Texas Medical Board Order of Termination, dated August 28, 2015;

Exhibit C: Jury Verdicts and Instructions Excerpts for Docket No. 3:16-CR-00516-JJZ;

Exhibit D: Texas Medical Board Order of Suspension, dated June 27, 2019;

Exhibit E: Judgement, U.S. District Court, Northern District of Texas, Docket No. 3:16-CR-00516-JJZ; and

Exhibit F: Notice of Appeal, Docket No. 3:16-CR-00516-JJZ(14), dated March 24, 2021.

Dr. Shah has not filed a brief or an opposition to the Board's motion, nor any supporting documents.

FINDINGS OF FACT

The parties stipulated to the following facts:

1. The Respondent was born on June 24, 1974.
2. The Respondent graduated from Tulane University Medical School in 1999.
3. The Respondent obtained a full license to practice medicine in Massachusetts on October 24, 2001 under certificate Number 212815.
4. The Respondent's full license to practice medicine in Massachusetts lapsed on June 24, 2004 for failure to renew.
5. The Respondent maintains an inchoate right to renew his full license to practice medicine in Massachusetts.
6. The Respondent obtained a license to practice medicine in Texas on March 28, 2003 under Certificate Number L-6714.
7. On October 18, 2013 the Respondent was disciplined by the Texas Medical Board for failure to provide operative reports in a timely manner, failure to respond to requests for reports, and failure to provide license and permit documentation to a surgery center upon request. (Exhibit A.)
8. On October 18, 2013, the Texas Medical Board ordered the Respondent's practice to comply with eight consecutive monitoring cycles, complete twelve hours of continuing medical education, and submit an office policy or protocol statement regarding timely submission of reports. (Exhibit A.)

9. On August 28, 2015, the Texas Medical Board terminated its October 18, 2013 Order after the Respondent completed five of the eight chart monitoring cycles and was otherwise in compliance with all other terms and conditions of the Order. (Exhibit B.)

10. On April 9, 2019, a federal grand jury in the Northern District of Texas found the Respondent guilty of one count of Conspiracy to Pay and Receive Health Care Bribes and Kickbacks and three counts of Offering or Paying and Soliciting or Receiving Illegal Remuneration in Violation of the Anti-Kickback Statute, and Aiding and Abetting. (Exhibit C.)

11. On June 27, 2019, the Texas Medical Board ordered the Respondent's license to practice medicine indefinitely suspended by operation of law as a result of his criminal convictions on April 9, 2019. (Exhibit D.)

12. On August 6, 2019, the Respondent filed motions for acquittal and for a new trial with the Court, and these motions were denied on March 20, 2020.

13. The Respondent intends to appeal his convictions upon being sentenced. (Exhibit F.)

I make one additional finding, as well, based on conduct that occurred after the parties agreed upon their stipulations:

14. On March 18, 2021 the Court entered final judgment against the Respondent. He was sentenced to 42 months concurrently for each of the charges. Up on his release, he will be on an additional year of supervised release. The Respondent and his co-conspirators were ordered to pay \$40,339.37 total to two insurance companies. (Exhibit E.)

CONCLUSION AND RECOMMENDATION

The Board moves for summary decision under 801 CMR 1.01(7)(h). For the reasons stated herein, the Board's motion is allowed.

The Board has the authority to discipline a physician for conduct that undermines public confidence in the integrity of the medical profession and conduct which shows a lack of good moral character, including conviction of a crime. *See* 243 CMR 1.03(5)(a)(7). The Board also has the authority to discipline a physician who has been convicted of a criminal offense which reasonable calls into question his ability to practice medicine. *See* G.L. c. 112, § 5, ninth par. (g).

Here, Dr. Shah was convicted of conspiracy to pay and receive health care bribes and kickbacks, offering or paying illegal remuneration in violation of the anti-kickback statute, and aiding and abetting. As part of a conspiracy Dr. Shah took bribes and kickbacks in return for referring patients to a health care facility and physicians who take federal payments. Dr. Shah made these referrals not in the clinical interest of the patients, but rather for the financial gain of himself and his co-conspirators. Patients receiving referrals from their doctors should be able to expect referrals that reflect the doctor's best judgment and care for patients, and that is not driven by his own personal and financial interests. These crimes show a serious lack of moral character and call into question his ability to practice medicine.

The fact that Dr. Shah has appealed his convictions and asserts his innocence does not mean that he can prevail on the Board's motion. The Board is not required to wait until a physician has exhausted his appellate options before it can take action against his license. *See, e.g., Board of Registration in Medicine v. Greineder*, RM-00-238 (DALA

Aug. 27, 2001) (allowing Board's motion for summary decision while physician still appealing his conviction for homicide); *Board of Registration in Medicine v. Mukherjee*, RM-07-247 (DALA July 17, 2007) (denying motion to stay pending results of criminal appeal).

Additionally, pursuant to 243 CMR 1.03(5)(a)(12), the Board may discipline Dr. Shah for his Texas misconduct if there is sufficient evidence to establish that he was disciplined in any way in a foreign jurisdiction (in this case, Texas) and the reason for the discipline was substantially the same as that for which discipline is authorized in Massachusetts. The Texas Medical Board's October 18, 2013 Agreed Order and its June 27, 2019 Order of Suspension are discipline in a foreign jurisdiction. The evidence also establishes that the reasons for the Texas discipline are substantially the same as those for which discipline is permitted in Massachusetts. In 2013, Dr. Shah agreed that he did not timely provide operative reports, respond to requests for reports, and provide license and permit documentation to the surgery center. In Massachusetts, such conduct is subject to discipline under 243 CMR 2.07(13)(a) and (b).¹ Then, in 2019, Dr. Shah was disciplined

¹ 243 CMR 2.07(13)(a) provides, in relevant part:

A licensee shall maintain a medical record for each patient that is complete, timely, legible, and adequate to enable the licensee or any other health care provider to provide proper diagnosis and treatment. . . . A licensee must maintain a patient's records in a manner which permits the former patient or a successor physician reasonable access to the records within the terms of 243 CMR 2.00. 243 CMR 2.00 applies to all licensees including, but not limited to, those with active, inactive, lapsed, suspended, revoked, resigned or retired status.

243 CMR 2.07(13)(b) provides, in relevant part:

Upon a patient's request, a licensee shall provide the following in a timely manner, to a patient, other licensee or other specifically authorized person:

for having been convicted of felony criminal charges, essentially healthcare fraud. In Massachusetts, physicians convicted of crimes are subject to discipline under G.L. c. 112, § 5, ninth par. (g)² and 243 CMR 1.03(5)(a)(7).³ Therefore, the Board has proven that it may discipline Dr. Shah for having been disciplined by the Texas Medical Board.

Based on the foregoing, I conclude that there is no genuine issue of fact relating to the Board's Statement of Allegations and, for the reasons stated above, that the Board is entitled to prevail as a matter of law. I therefore recommend that the Board's motion for

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1. The opportunity to inspect that patient's medical record, except in the circumstances described at 243 CMR 2.07(13)(e);
 2. A copy of such record, except in the circumstances described at 243 CMR 2.07(13)(e);
 3. A copy of any previously completed report required for third-party reimbursement.

² G.L. c. 112, § 5 ninth par. (g) provides, in relevant part:

The board may, after a hearing pursuant to chapter thirty A, revoke, suspend, or cancel the certificate of registration, or reprimand, censure, impose a fine not to exceed ten thousand dollars for each classification of violation, require the performance of up to one hundred hours of public service, in a manner and at a time and place to be determined by the board, require a course of education or training or otherwise discipline a physician registered under said sections upon proof satisfactory to a majority of the board that said physician:—

...

(g) has been convicted of a criminal offense which reasonably calls into question his ability to practice medicine.

³ 243 CMR 1.03(5)(a)(7) provides, in relevant part:

A complaint against a physician must allege that a licensee is practicing medicine in violation of law, regulations, or good and accepted medical practice and may be founded on any of the following:

...

(7) Conviction of any crime.

summary decision be allowed as to Dr. Shah's conduct and that the Board impose appropriate sanctions against him.

SO ORDERED.

DIVISION OF ADMINISTRATIVE LAW APPEALS

A handwritten signature in black ink, appearing to be 'K. Forton', written over a horizontal line.

Kenneth J. Forton
Administrative Magistrate

Dated: JUL - 8 2021

LICENSE NO. L-6174

IN THE MATTER OF

THE LICENSE OF

MRUGESHKUMAR K. SHAH, M.D.

BEFORE THE

TEXAS MEDICAL BOARD

AGREED ORDER

On the 18 day of October, 2013, came on to be heard before the Texas Medical Board (the Board), duly in session, the matter of the license of Mrugeshkumar K. Shah, M.D. (Respondent).

On August 12, 2013, Respondent appeared in person, with counsel Samuel Johnson, 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 Surendra Kumar Varma, M.D. and Larry Buchler, members of District Review Committees (Panel). Victoria Pearce represented Board staff.

BOARD CHARGES

Board staff charged that Respondent's privileges at a surgery center were revoked following claims by the surgery center that Respondent failed to provide operative reports in a timely manner, failed to respond to requests for reports, and failed to provide license and permit documentation to the surgery center upon request.

BOARD HISTORY

Respondent has not previously received a disciplinary order from the Board.

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. L-6714. Respondent was originally issued this license to practice medicine in Texas on March 28, 2003. Respondent is not licensed to practice in any other state.
- c. Respondent is primarily engaged in the practice of Physical Medicine and Rehabilitation. Respondent is board certified by the American Board of Physical Medicine and Rehabilitation, a member of the American Board of Medical Specialties.
- d. Respondent is 39 years of age.

2. Specific Panel Findings:

- a. On January 29, 2013, Respondent was sent a letter from Frisco Reproductive Surgery Center informing him that his privileges for performing procedures had been revoked.
- b. The revocation of privileges was taken due to the Respondent's continued failure to timely complete his standard operating reports and failure to provide updated credentialing information.
- c. Respondent improperly relied on reminders from surgery centers to complete missing operative reports.
- d. Respondent does not have a written office policy in place to ensure that all notes and billing documentation are timely submitted to the surgery centers at which he holds privileges.
- e. Respondent admitted that it sometimes takes a month to produce the reports and provide them to the facility.
- f. Respondent stated that he is accustomed to a facility notifying him of delinquent reports before suspending him.

3. Mitigating Factors:

In determining the appropriate sanctions in this matter, the Panel considered the following mitigating factors:

- a. Respondent has no prior disciplinary history with the Board;
- b. Respondent maintains that he was never sent a letter indicating his privileges were revoked. Respondent also denies that his privileges were revoked, and that there was any revocation related to any charting or credentialing issue. Finally, Respondent notes that the facility did not provide any proof of delivery related to the letter considered by the panel; and
- c. Respondent has cooperated in the investigation of the allegations related to this Agreed Order. Respondent's cooperation, through consent to this Agreed Order, pursuant to the provisions of Section 164.002 the Act, will save money and resources for the State of Texas. 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)(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.
3. Section 164.051(a)(3) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's violation of a Board rule, specifically Board Rule 165.1(a), which requires the maintenance of adequate medical records.
4. Section 164.051(a)(6) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's failure to practice medicine in an acceptable professional manner consistent with public health and welfare, as further defined by Board Rule 190.8(1)(C), failure to use proper diligence in one's professional practice.

5. 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.

6. 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.

7. 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.

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

9. Section 164.002(d) of the Act provides that this Agreed Order is a settlement agreement under the Texas Rules of Evidence for purposes of civil litigation.

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. Respondent shall be subject to the following terms and conditions for eight consecutive monitoring cycles, (defined below). Respondent's practice shall be monitored by a physician, (monitor), in accordance with §164.001(b)(7) of the Act. The Compliance Division of the Board shall designate the monitor and may change the monitor at any time for any reason. The monitor shall have expertise in a similar specialty area as Respondent. The Compliance Division shall provide a copy of this Order to the monitor, together with other information necessary to assist the monitor.

a. As requested by the Compliance Division, Respondent shall prepare and provide complete legible copies of selected patient medical and billing records (selected records). The Compliance Division shall select records for at least 30 patients seen by Respondent during each three-month period following the last day of the month of entry of this Order (reporting period). The Compliance Division may select records for more than 30 patients, up to 10 percent of the patients seen during a reporting period. If Respondent fails to see at least 30 patients during any three-month period, the term of this Order shall be extended until Respondent can submit a sufficient number of records for a monitor to review.

b. The monitor shall perform the following duties:

- 1) personally review the selected records;
- 2) prepare written reports documenting any perceived deficiencies and any recommendations to improve Respondent's practice of medicine or assist in the ongoing monitoring process. Reports shall be submitted as requested by the Compliance Division; and
- 3) perform any other duty that the Compliance Division determines will assist the effective monitoring of Respondent's practice.

c. The Compliance Division shall provide to Respondent a copy of the monitor's report describing any deficiencies or recommendations submitted by the monitor. Respondent shall implement the recommendations as directed by the Compliance Division.

d. A "monitoring cycle" begins when the Compliance Division selects patient records for review, and concludes when Respondent receives the monitor's report for that group of records.

e. The monitor shall be the agent of the Board, but shall be compensated by the Respondent through the Board. Such compensation and any costs incurred by the monitor shall be paid by Respondent to the Board and remitted by the Board to the monitor. Respondent shall not charge the compensation and costs paid to the monitor to any patients

2. Within one year beginning from the date of the entry of this Order, Respondent shall enroll in and successfully complete, in person, at least 12 hours of continuing medical education (CME) divided equally among the following topics: at least four hours in the topic of medical ethics; at least four hours in the topic of risk management; and at least four hours in the topic of medical recordkeeping. All CME hours must 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.

3. Within 30 days from the date of the entry of this Order, Respondent shall submit to the Board an office policy or protocol statement adopted by Respondent's practice regarding the timely submission of reports to any hospitals, nursing homes, treatment facilities, and other health care entities where Respondent has privileges. Such statement shall be submitted in writing to the Compliance Division of the Board.

4. 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 applied for privileges, applies for privileges, or otherwise practices. Within thirty days of entry of this Order Respondent shall provide documentation, including proof of delivery, to the Compliance Division of the Board that the Order was delivered to all such facilities.

5. The time period of this Order shall be extended for any period of time that: (a) Respondent subsequently practices exclusively outside the State of Texas; (b) Respondent's license is subsequently cancelled for nonpayment of licensure fees; (c) this Order is stayed or enjoined by Court Order; or (d) for any period of time longer than 60 consecutive days that Respondent does not actively practice medicine. If Respondent leaves Texas to practice elsewhere or ceases active practice for more than 60 consecutive days, Respondent shall immediately notify the Board in writing. Upon Respondent's return to active practice or return to practice in Texas, Respondent shall notify the Board in writing. When the period of extension ends, Respondent shall be required to comply with the terms of this Order for the period of time remaining on the Order. Respondent shall pay all fees for reinstatement or renewal of a license covering the period of extension or tolling.

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

7. 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.

8. 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).

9. 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

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

The above-referenced conditions shall continue in full force and effect without opportunity for amendment, except for clear error in drafting, for one year following the date of the entry of this Order. If, after the passage of the one-year period, Respondent wishes to seek amendment or termination of these conditions, Respondent may petition the Board in writing. The Board may inquire into the request and may, in its sole discretion, grant or deny the petition without further appeal or review. Petitions for modifying or terminating may be filed only once a year thereafter. 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.

I, MRUGESHKUMAR K. SHAH, 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: September 24, 2013.

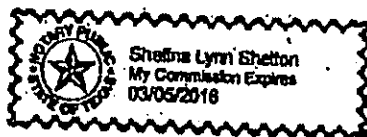
Mrugesh K. Shah
MRUGESHKUMAR K. SHAH, M.D.
Respondent

STATE OF TEXAS §
COUNTY OF DALLAS §

SWORN TO AND ACKNOWLEDGED BEFORE ME, the undersigned Notary Public, on this 24 day of September, 2013.

Shelton
Signature of Notary Public

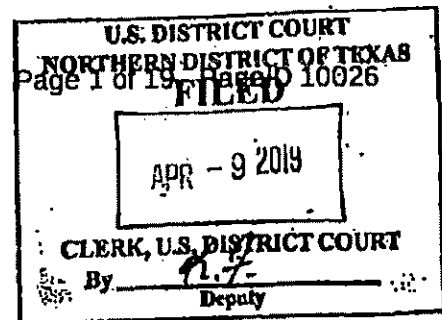
(Notary Seal)



SIGNED AND ENTERED by the presiding officer of the Texas Medical Board on this
18 day of October, 2013.

Irvin E. Zeitler, Jr.
Irvin E. Zeitler, Jr., D.O. President
Texas Medical Board

ATTACHMENT B



IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

United States of America

Case No. 3:16 CR 516

Plaintiff,

VERDICTS

-vs-

JUDGE JACK ZOUHARY

Burt, Hempel, Jacob, Won, Rimlawi,
Nicholson, Henry, Shah, & Forrest

Defendants.

We, the jury, duly impaneled and sworn, find as follows:

COUNT 1

Conspiracy to Pay and Receive Health Care Bribes and Kickbacks
(pages 14-19)

Defendant Wilton McPherson Burt

NOT GUILTY

GUILTY

(circle one)

Defendant Carli Adele Hempel

NOT GUILTY

GUILTY

(circle one)

Defendant Jackson Jacob

NOT GUILTY

GUILTY

(circle one)

Defendant Douglas Sung Won

NOT GUILTY

GUILTY

(circle one)

Defendant Michael Bassem Rimlawi

NOT GUILTY

GUILTY

(circle one)

Defendant William Daniel Nicholson

NOT GUILTY

GUILTY

(circle one)

Defendant Shawn Mark Henry

NOT GUILTY

GUILTY

(circle one)

Defendant Mrugeshkumar Kumar Shah

NOT GUILTY

GUILTY

(circle one)

Defendant Iris Kathleen Forrest

NOT GUILTY

GUILTY

(circle one)

* * *

If you find all Defendants not guilty of Count 1 (Conspiracy), proceed to the next Count. If you find one or more Defendants guilty of Count 1, you must unanimously answer the following:

The object of the conspiracy charged in Count 1 was to commit (check one):

- Illegal Remuneration (Anti-Kickback Statute Violation) ☒
- Travel Act Violation by way of Commercial Bribery ☐
- Both Illegal Remuneration and Travel Act Violation ☐

* * *

COUNT 2

**Offering or Paying and Soliciting or Receiving Illegal Remuneration
in Violation of the Anti-Kickback Statute and Aiding and Abetting**
(pages 20-26)

Count	Alleged Bribe or Kickback Payors	Alleged Bribe or Kickback Recipient	Date Payment Cleared Bank	Amount of Payment	Beneficiary & Date of Service(s) at FPMC
2	Jacob and coconspirator Beauchamp, aiding and abetting one another	Shah	On or about 2/27/2012 (check #2100)	\$3,000	FECA beneficiaries, G.A., P.C., J.M. (1/17/2012), and K.J. (1/31/2012)

Defendant Jackson Jacob

NOT GUILTY

GUILTY

(circle one)

Defendant Mrugeshkumar Kumar Shah

NOT GUILTY

GUILTY

(circle one)

* * *

COUNT 3

**Offering or Paying and Soliciting or Receiving Illegal Remuneration
in Violation of the Anti-Kickback Statute and Aiding and Abetting**
(pages 20-26)

Count	Alleged Bribe or Kickback Payors	Alleged Bribe or Kickback Recipient	Date Payment Cleared Bank	Amount of Payment	Beneficiary & Date of Service(s) at FPMC
3	Coconspirator Beauchamp	Forrest	On or about 2/21/2012 (check #2080)	\$22,500	FECA beneficiary M.A., 1/24/2012 and 2/3/2012

Defendant Iris Kathleen Forrest

NOT GUILTY

GUILTY

(circle one)

* * *

COUNT 4

**Offering or Paying and Soliciting or Receiving Illegal Remuneration
in Violation of the Anti-Kickback Statute and Aiding and Abetting**
(pages 20-26)

Count	Alleged Bribe or Kickback Payors	Alleged Bribe or Kickback Recipient	Date Payment Cleared Bank	Amount of Payment	Beneficiary and Date of Service(s) at FPMC
4	Jacob and coconspirator Beauchamp, aiding and abetting one another	Shah	On or about 5/4/2012 (check #2202)	\$1,000	FECA beneficiaries, P.M. and N.Y., 3/20/2012

Defendant Jackson Jacob

NOT GUILTY

(circle one)

GUILTY

Defendant Mrugeshkumar Kumar Shah

NOT GUILTY

(circle one)

GUILTY

* * *

COUNT 5

**Offering or Paying and Soliciting or Receiving Illegal Remuneration
in Violation of the Anti-Kickback Statute and Aiding and Abetting**
(pages 20-26)

Count	Alleged Bribe or Kickback Payors	Alleged Bribe or Kickback Recipient	Date Payment Cleared Bank	Amount of Payment	Beneficiary and Date of Service(s) at FPMC
5	Burt, Jacob, and coconspirators Beauchamp, Toussaint, and Barker, aiding and abetting one another	Rimlawi	On or about 1/30/2012 (check #2014)	\$175,000	FECA beneficiary D.H., between 2/1/2012 and 2/17/2012

Defendant Wilton McPherson Burt

NOT GUILTY

GUILTY

(circle one)

Defendant Jackson Jacob

NOT GUILTY

GUILTY

(circle one)

Defendant Michael Bassem Rimlawi

NOT GUILTY

GUILTY

(circle one)

* * *

COUNT 6
Offering or Paying and Soliciting or Receiving Illegal Remuneration
in Violation of the Anti-Kickback Statute and Aiding and Abetting
(pages 20-26)

Count	Alleged Bribe or Kickback Payors	Alleged Bribe or Kickback Recipient	Date Payment Cleared Bank	Amount of Payment	Beneficiary and Date of Service(s) at FPMC
6	Burt, Jacob, and coconspirators Beauchamp, Toussaint, and Barker, aiding and abetting one another	Rimlawi	On or about 3/20/2012 (check #2115)	\$175,000	FECA beneficiary A.A., between 4/2/2012 and 4/12/2012

Defendant Wilton McPherson Burt

NOT GUILTY

GUILTY

(circle one)

Defendant Jackson Jacob

NOT GUILTY

GUILTY

(circle one)

Defendant Michael Bassem Rimlawi

NOT GUILTY

GUILTY

(circle one)

* * *

COUNT 7
Offering or Paying and Soliciting or Receiving Illegal Remuneration
in Violation of the Anti-Kickback Statute and Aiding and Abetting
(pages 20-26)

Count	Alleged Bribe or Kickback Payors	Alleged Bribe or Kickback Recipient	Date Payment Cleared Bank	Amount of Payment	Beneficiary and Date of Service(s) at FPMC
7	Jacob and coconspirator Beauchamp, aiding and abetting one another	Shah	On or about 5/31/2012 (check #2248)	\$1,000	FECA beneficiaries T.B., R.S., D.W., N.Y. (4/3/2012), and K.S., (4/17/2012)

Defendant Jackson Jacob

NOT GUILTY

GUILTY

(circle one)

Defendant Mrugeshkumar Kumar Shah

NOT GUILTY

GUILTY

(circle one)

* * *

COUNT 8
Travel Act and Aiding and Abetting (Commercial Bribery)
 (pages 27-32)

Count	Alleged Bribe or Kickback Payors	Alleged Bribe or Kickback Recipient	Alleged Use of Facility in Interstate Commerce	Alleged Acts Performed Thereafter	Check No.
8	Burt, and coconspirators Beauchamp, Toussaint, and Barker, aiding and abetting one another	Henry	On or about November 29, 2011, Burt, and coconspirators Beauchamp, Toussaint, and Barker caused a \$35,000 check from FPMC to be deposited into a bank account controlled by the Neal Richards Group.	On or about December 8, 2011, a \$30,000 check from the Neal Richards Group for Henry's benefit cleared a bank account.	5095

Defendant Wilton McPherson Burt

NOT GUILTY

GUILTY

(circle one)

Defendant Shawn Mark Henry

NOT GUILTY

GUILTY

(circle one)

* * *

COUNT 9
Travel Act and Aiding and Abetting (Commercial Bribery)
(pages 27-32)

Count	Alleged Bribe or Kickback Payors	Alleged Bribe or Kickback Recipient	Alleged Use of Facility in Interstate Commerce	Alleged Acts Performed Thereafter	Check No.
9	Burt, Jacob, and coconspirators Beauchamp, Toussaint, and Barker, aiding and abetting one another	Kim	On or about November 14, 2011, Beauchamp sent an email to Jacob with dollar amounts to pay various bribe and kickback recipients, including \$125,000 to a company that acted for Kim's benefit.	On or about December 5, 2011, a check for \$125,000 for Kim's benefit cleared a bank account.	1928

Defendant Wilton McPherson Burt

NOT GUILTY

GUILTY

(circle one)

Defendant Jackson Jacob

NOT GUILTY

GUILTY

(circle one)

* * *

COUNT 11
Travel Act and Aiding and Abetting (Commercial Bribery)
(pages 27-32)

Count	Alleged Bribe or Kickback Payors	Alleged Bribe or Kickback Recipient	Alleged Use of Facility in Interstate Commerce	Alleged Acts Performed Thereafter	Check No.
11	Burt, Jacob, and coconspirators Beauchamp, Toussaint, and Barker, aiding and abetting one another	Won	On or about June 13, 2012, Beauchamp sent an email to Jacob with dollar amounts to pay various bribe and kickback recipients, including \$112,500 to a company that acted for Won's benefit.	On or about June 22, 2012, two checks totaling \$112,500 for Won's benefit cleared a bank account.	1014, 2307

Defendant Wilton McPherson Burt

NOT GUILTY

GUILTY

(circle one)

Defendant Jackson Jacob

NOT GUILTY

GUILTY

(circle one)

Defendant Douglas Sung Won

NOT GUILTY

GUILTY

(circle one)

* * *

COUNT 12
Travel Act and Aiding and Abetting (Commercial Bribery)
(pages 27-32)

Count	Alleged Bribe or Kickback Payors	Alleged Bribe or Kickback Recipient	Alleged Use of Facility in Interstate Commerce	Alleged Acts Performed Thereafter	Check No.
12	Jacob and coconspirator Beauchamp, aiding and abetting one another	Gonzales	On or about June 13, 2012, Beauchamp sent an email to Jacob with dollar amounts to pay various bribe and kickback recipients, including \$10,000 to a company that acted for Gonzales's benefit.	On or about June 25, 2012, a check for \$10,000 for Gonzales's benefit cleared a bank account.	2314

Defendant Jackson Jacob

NOT GUILTY

GUILTY

(circle one)

* * *

COUNT 13
Travel Act and Aiding and Abetting (Commercial Bribery)
(pages 27-32)

Count.	Alleged Bribe or Kickback Payors	Alleged Bribe or Kickback Recipient	Alleged Use of Facility in Interstate Commerce	Alleged Acts Performed Thereafter	Check No.
13	Burt, Jacob, and coconspirators Beauchamp, Toussaint, and Barker, aiding and abetting one another	Nicholson	On or about July 13, 2012, Beauchamp sent an email to Jacob with dollar amounts to pay various bribe and kickback recipients, including \$100,000 to a company that acted for Nicholson's benefit.	On or about July 24, 2012, a check for \$100,000 for Nicholson's benefit cleared a bank account.	2330

Defendant Wilton McPherson Burt

NOT GUILTY

GUILTY

(circle one)

Defendant Jackson Jacob

NOT GUILTY

GUILTY

(circle one)

Defendant William Daniel Nicholson

NOT GUILTY

GUILTY

(circle one)

* * *

COUNT 15
Travel Act and Aiding and Abetting (Commercial Bribery)
(pages 27-32)

Count	Alleged Bribe or Kickback Payors	Alleged Bribe or Kickback Recipient	Alleged Use of Facility in Interstate Commerce	Alleged Acts Performed Thereafter	Check No.
15	Burt, Jacob, and coconspirators Beauchamp, Toussaint, and Barker, aiding and abetting one another	Rimlawi	On or about September 14, 2012, Burt, Jacob, and coconspirators Beauchamp, Toussaint, and Barker, caused a \$655,567 check from FPMC to be deposited into Adelaide's bank account.	On or about September 17, 2012, a check for \$175,000 for Rimlawi's benefit cleared a bank account.	2443

Defendant Wilton McPherson Burt

NOT GUILTY

GUILTY

(circle one)

Defendant Jackson Jacob

NOT GUILTY

GUILTY

(circle one)

Defendant Michael Bassem Rimlawi

NOT GUILTY

GUILTY

(circle one)

COUNT 16
Travel Act and Aiding and Abetting (Commercial Bribery)
 (pages 27-32)

Count	Alleged Bribe or Kickback Payors	Alleged Bribe or Kickback Recipient	Alleged Use of Facility in Interstate Commerce	Alleged Acts Performed Thereafter	Check No.
16	Burt, Jacob, and coconspirators Beauchamp, Toussaint, and Barker, aiding and abetting one another	Nicholson	On or about September 14, 2012, Burt, Jacob, and coconspirators Beauchamp, Toussaint, and Barker caused a \$655,567 check from FPMC to be deposited into Adelaide's bank account.	On or about September 26, 2012, two checks totaling \$75,000 for Nicholson's benefit cleared a bank account.	1034; 2433

Defendant Wilton McPherson Burt

NOT GUILTY

GUILTY

(circle one)

Defendant Jackson Jacob

NOT GUILTY

GUILTY

(circle one)

Defendant William Daniel Nicholson

NOT GUILTY

GUILTY

(circle one)

* * *

COUNT 17
Travel Act and Aiding and Abetting (Commercial Bribery)
 (pages 27-32)

Count	Alleged Bribe or Kickback Payors	Alleged Bribe or Kickback Recipient	Alleged Use of Facility in Interstate Commerce	Alleged Acts Performed Thereafter	Check No.
17	Burt, Jacob, and coconspirators Beauchamp, Toussaint, and Barker, aiding and abetting one another	Kim	On or about September 14, 2012, Burt, Jacob, and coconspirators Beauchamp, Toussaint, and Barker caused a \$655,567 check from FPMC to be deposited into Adelaide's bank account.	On or about September 28, 2012, two checks totaling \$125,000 for Kim's benefit cleared a bank account.	1036; 2436

Defendant Wilton McPherson Burt

NOT GUILTY

GUILTY

(circle one)

Defendant Jackson Jacob

NOT GUILTY

GUILTY

(circle one)

* * *

COUNT 18
Conspiracy to Commit Laundering of Monetary Instruments
(pages 33-35)

Defendant Wilton McPherson Burt

NOT GUILTY

GUILTY

(circle one)

Defendant Jackson Jacob

NOT GUILTY

GUILTY

(circle one)

* * *

COUNT 19
Conspiracy to Commit Laundering of Monetary Instruments
(pages 33-35)

Defendant Wilton McPherson Burt

NOT GUILTY

GUILTY

(circle one)

Defendant Shawn Mark Henry


NOT GUILTY

GUILTY

(circle one)

* * *

We, the jury, unanimously agree with the above findings as to each count.


Mariolina Chandler
A. Balliet
John M. M...
R...
Jim ...

Blenda McCrany
Chris W...
Jessica Williamson
Robert Manchell
...
Foreperson

ATTACHMENT C

LICENSE NO. L-6174

IN THE MATTER OF

THE LICENSE OF

MRUGESHKUMAR K. SHAH, M.D.

BEFORE A

DISCIPLINARY PANEL OF THE

TEXAS MEDICAL BOARD

ORDER OF SUSPENSION BY OPERATION OF LAW

On June 27, 2019, a Hearing to consider the Application for Suspension by Operation of Law was held in the matter of the license of Mrugeshkumar K. Shah, M.D. (Respondent). Notice was provided to Respondent pursuant to all relevant provisions of the Medical Practice Act, Title 3, Subtitle B, Texas Occupations Code (Act) and the Rules of the Board. Respondent appeared in person, with counsel, Jordan Parker. The Board's representatives were George DeLoach D.O., and Robert Gracia, members of the Board (Panel). Nikki Karr represented Board staff.

After consideration of available evidence, the Board through its representatives makes the following Findings of Fact and Conclusions of Law and directs the Executive Director to enter this Order.

FINDINGS OF FACT

The Board finds that:

1. 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 Act or the Rules of the Board.
2. Respondent currently holds Texas Medical License No. L-6174. Respondent was originally issued this license to practice medicine in Texas on March 28, 2003.
3. Respondent is engaged in Physical Medicine and Rehabilitation. Respondent is board certified by the American Academy of Physical Medicine and Rehabilitation.
4. Respondent is 45 years of age.
5. On November 16, 2016, in the United States District Court (USDC) for the Northern District of Texas, case number 3:16-CR-00516-D; Respondent and his alleged co-conspirators were indicted for their participation in an illegal bribe and kickback scheme regarding patient referrals to Forest Park Medical Center.

6. Specifically, Respondent and his alleged co-conspirators were indicted on Count One: Conspiracy to Pay and Receive Health Care Bribes and Kickbacks; Counts 2 – 11: Offering or Paying and Soliciting or Receiving Illegal Remuneration and Aiding and Abetting; Counts 12 – 18, Travel Act and Aiding and Abetting (Commercial Bribery); and Counts 19 and 20 Conspiracy to Commit Laundering of Monetary Instruments.

7. On April 9, 2019, Respondent was found guilty of Count 1 – Conspiracy to Pay and Receive Health Care Bribes and Kickbacks (Anti-Kickback Statute Violation); Respondent was also found guilty of Counts 2, 4, and 7 – Offering or Paying and Soliciting or Receiving Illegal Remuneration in Violation of the Anti Kickback Statute and Aiding and Abetting.

CONCLUSIONS OF LAW

Based on the above Findings of Fact, the Board concludes that:

1. The Board has jurisdiction over the subject matter and Respondent under the Act.
2. Section 53.021(a) of the Texas Occupations Code authorizes the Board to suspend or revoke a physician's license on grounds that the license holder has been convicted of an offense that directly relates to the duties and responsibilities of the licensed occupation.
3. Section 164.057(a)(1)(A) of the Act requires the Board to suspend a physician's license on proof that the physician has been initially convicted of a felony.
4. Section 164.057(b) of the Act requires the Board to revoke a physician's license on proof that the physician has been finally convicted of a felony.
5. Board Rule 187.70 *et seq.* authorizes the Board to direct the Executive Director to enter an order suspending the licensee's medical license in accordance with §164.057 of the Act.

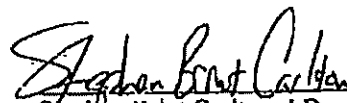
ORDER

Based on the above Findings of Fact and Conclusions of Law, the Board ORDERS that:

1. Respondent's Texas Medical License No. L-6174 is hereby SUSPENDED.
2. Respondent shall not practice in the State of Texas until authorized to do so by the Board.
3. This Order shall remain in effect until superseded by a subsequent Board Order.

THIS ORDER IS A PUBLIC RECORD.

SIGNED AND ENTERED by the Executive Director of the Texas Medical Board on this
27th day of June, 2019.

A handwritten signature in black ink, appearing to read "Stephen Brint Carlton", written over a horizontal line.

Stephen Brint Carlton, J.D.
Executive Director
Texas Medical Board