

IN THE MATTER OF
THE LICENSE OF
ROBERT MATHEW HEIN, M.D.

BEFORE THE DISCIPLINARY
PANEL OF THE
TEXAS MEDICAL BOARD

ORDER OF TEMPORARY SUSPENSION
(WITHOUT NOTICE OF HEARING)

On June 16, 2020, came to be heard before the Disciplinary Panel (“Panel”) of the Texas Medical Board (“Board”), composed of Sharon Barnes, Satish Nayak, MD, and Luann Morgan, members of the Board duly in session, the matter of the Application for Temporary Suspension (WITHOUT NOTICE OF HEARING) of the license of Robert Mathew Hein, M.D. (“Respondent”). Respondent did not appear in person and Christopher Palazola represented Board staff. Based on evidence submitted, the Board through this Panel makes the following Findings of Fact and Conclusions of Law and enters this Order of Temporary Suspension (WITHOUT NOTICE OF HEARING):

FINDINGS OF FACT

1. Respondent is a Texas Physician and holds Texas Medical License No. M-6182, issued by the Board on April 13, 2007, which was in full force and effect at all times material and relevant to this Application. All jurisdictional requirements have been satisfied.
2. At the direction and approval of Sherif Z. Zaafran, M.D., President of the Board, Sharon Barnes, Satish Nayak, MD, and Luann Morgan, members of the Board, were appointed to sit as a Disciplinary Panel in this matter, pursuant to the Medical Practice Act, TEX. OCC. CODE ANN. Title 3, Subtitle B (the “Act”) §164.059(a) and 22 TEX. ADMIN. CODE §187.56.
3. The Panel convened without Notice, pursuant to §164.059(c) of the Act.
4. Respondent practices in Gainesville, Texas. On his public profile, Respondent lists his primary specialty as pain management.
5. On or about April 17, 2020, between the hours of 9:30 a.m. and 1:30 p.m., Respondent’s employer (the Clinic) suspected that he treated patients while under the influence of controlled substances not legitimately prescribed to him.

6. On or about April 17, 2020, at around 1:45 p.m, Respondent was found unresponsive requiring hospital staff to perform CPR. Paramedics were in the process of intubating Respondent when he finally responded and refused further treatment. He was observed to be slurring his words.

7. Immediately following this event, Respondent was asked to provide a urine sample for a drug screen. As part of the process, he was asked to identify any controlled substances that would be found in his Urine Drug Screen (UDS). Respondent identified three prescription drugs that he said would be found in his UDS.

8. Respondent further indicated that he had self-prescribed one of the three controlled substances, an opioid, and that the Clinic's Advanced Nurse Practitioner had prescribed the other two controlled substances, which were also pain medications. Respondent's UDS was negative for all three of the substances he self-identified.

9. The UDS were returned from Quest Diagnostics on April 21, 2020. While negative for the three substances self-identified by Respondent, the UDS did reveal the presence of one non-disclosed benzodiazepine and three non-disclosed opioid medications.

10. During the follow up investigation the Clinic noted there was no documentation of the prescriptions Respondent claimed were written by the APN. It was determined that the medications were called in for Respondent by medical assistants working in the Clinic.

11. The Clinic's investigation also resulted in a search of Respondent's office. During this search they located in Respondent's locked desk drawer empty medication tubes, a box of opened medication and empty used syringes. A follow up review determined that of 60 charts reviewed, 80% had deviations in the amount of medication ordered versus what was administered to the patient, with no wastage noted. The medications involved included Dilaudid, Fentanyl and Hydromorphone.

12. The Clinic has learned since Respondent stopped working for them, that he has continued to attempt to prescribe controlled substances using the prescription forms from the Clinic at various pharmacies in the Gainesville area.

13. Texas Board of Pharmacy records for Respondent indicate that prior to the date of the UDS provided at The Clinic, the only two prescriptions provided to him were from June 2019 and included the Tramadol and Tylenol prescriptions he self-identified, but that were not

found in his UDS. There were no prescription records to support the drugs found in Respondent's April 2020 UDS.

14. Respondent appears to have treated patients while under the influence of controlled substances diverted from patients for his own personal use without any apparent valid medical purpose.

15. Based on the above Findings of Fact, the Panel finds an imminent peril to the public health, safety, or welfare that requires immediate effect of this Order of Temporary Suspension on the date rendered.

CONCLUSIONS OF LAW

Based on the above Findings of Fact, the Panel concludes the following:

1. Section 164.059 of the Act authorizes the Disciplinary Panel to temporarily suspend or restrict the medical license of Respondent if the Disciplinary Panel determines from evidence presented to it that the Respondent's continuation in the practice of medicine would constitute a continuing threat to the public welfare.

2. Based on the evidence presented and the Findings of Fact set forth herein, the Disciplinary Panel finds that Respondent violated various sections of the Medical Practice Act, specifically:

- a. Section 151.002(a)(2). Respondent's conduct and continuation in the practice of medicine would constitute a continuing threat to the public welfare. Continuing threat means "a real danger to the health of a physician's patients or to the public from acts or omissions of the physician caused through the physician's lack of competence, impaired status, or failure to care adequately for physician's patients."
- b. Section 164.051(a)(4) of the Act based upon Respondent's inability to practice medicine with reasonable skill and safety to patients because of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or other substances, or as a result of any mental or physical condition.
- c. Section 164.052(a)(4) of the Act based upon Respondent's use of alcohol or drugs in an intemperate manner that, in the opinion of the Board, could endanger the lives

of patients.

- d. Section 164.052(a)(5) of the Act based upon Respondent's unprofessional or dishonorable conduct that is likely to deceive or defraud the public or injure the public.

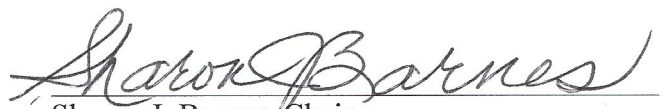
4. Based on the evidence presented and the above Findings of Fact and Conclusions of Law, the Panel determines that Respondent's continuation in the practice of medicine would constitute a continuing threat to the public welfare.

ORDER

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

1. Respondent's Texas Medical License No. M-6182 is hereby TEMPORARILY SUSPENDED.
2. This Order of Temporary Suspension (WITHOUT NOTICE OF HEARING) is final and effective on the date rendered.
3. Notice of this Order of Temporary Suspension (WITHOUT NOTICE OF HEARING) shall be given immediately to Respondent.
4. A hearing on the Application for Temporary Suspension (WITH NOTICE) will hereby be scheduled before a Disciplinary Panel of the Board at a date to be determined as soon as practicable, at the offices of the Board, unless such hearing is specifically waived by the Respondent.
5. This Order of Temporary Suspension (WITHOUT NOTICE OF HEARING) shall remain in effect until such time as a hearing on the Application for Temporary Suspension (WITH NOTICE) is conducted and a Disciplinary Panel enters an order, or until superseded by an Order of the Board.

Signed and entered this June 16, 2020.


Sharon J. Barnes, Chair
Disciplinary Panel
Texas Medical Board