BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:	)	
George Erwin Brown, Jr., M.D.	)	MBC File # 800-2018-047179
Physician's & Surgeon's Certificate No. C 154843	)	
Respondent.	)	

ORDER CORRECTING NUNC PRO TUNC
CLERICAL ERROR IN "RESPONDENT'S NAME" PORTION OF DECISION

On its own motion, the Medical Board of California (hereafter "Board") finds that there is a clerical error in the "Respondent's name." portion of the Decision in the above-entitled matter and that such clerical error should be corrected so that the Respondent's name will conform to the Board's issued license.

IT IS HEREBY ORDERED that the Respondent's name contained on the Decision Order Page in the above-entitled matter be and hereby is amended and corrected nunc pro tunc as of the date of entry of the Decision to read as "George Erwin Brown, Jr.".

February 5, 2019

Ronald H. Lewis, M.D., Chair
Panel A

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:	)	
George Erwin Brown, M.D.	)	**Case No. 800-2018-047179**
Physician's and Surgeon's Certificate No. C 154843	)	
Respondent	)	

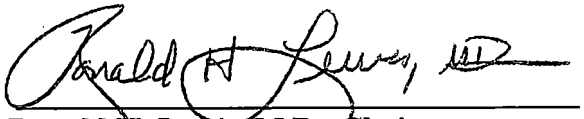
DECISION

The attached Proposed Decision is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on January 29, 2020.

IT IS SO ORDERED December 30, 2019.

MEDICAL BOARD OF CALIFORNIA



Ronald H. Lewis, M.D., Chair
Panel A

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

GEORGE ERWIN BROWN, JR., M.D.,

Physician's and Surgeon's Certificate No. C 154843

Respondent.

Agency Case No. 800-2018-047179

OAH No. 2019050561

PROPOSED DECISION

Administrative Law Judge Juliet E. Cox, State of California, Office of Administrative Hearings, heard this matter on September 5, 2019, in Oakland, California.

Deputy Attorney General Greg W. Chambers represented complainant Kimberly Kirchmeyer, Executive Director of the Medical Board of California.

Attorney Robert K. Weinberg represented respondent George Erwin Brown, Jr., M.D. Respondent was present in person for the hearing although Weinberg appeared by telephone.

The record was held open for submission of further documentary evidence by respondent, and for any objections and argument about that evidence by complainant. Respondent submitted no further documentary evidence. Complainant timely submitted argument stating that respondent had provided further documents to complainant, and arguing as to the appropriate discipline in this matter. Complainant's argument was marked for identification as Exhibit 4 and considered.

The matter was submitted for decision on November 5, 2019.

FACTUAL FINDINGS

1. Respondent George Erwin Brown, Jr., M.D., lives and practices general and occupational medicine in Texas.

2. On March 21, 2018, the Medical Board of California (California Board) issued Physician's and Surgeon's Certificate No. C 154843 to respondent. The certificate expired on September 30, 2019; the evidence did not establish whether respondent renewed it.[1]

3. Acting in her official capacity as Executive Director of the California Board, complainant Kimberly Kirchmeyer filed an accusation against respondent in November 2018. The accusation alleges that the Texas Medical Board has restricted

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[1] A document in evidence states that the California Board revoked this certificate. This statement is not correct. Rather, although the California Board issued a decision on February 28, 2019, that would have revoked the certificate effective March 29, 2019, the California Board vacated this decision on March 6, 2019.

respondent's Texas medical practice because of his failure to supervise advanced practice nurses effectively. Because of the Texas discipline and the actions that led to it, complainant seeks an order placing respondent on probation in California.

Professional History

4. Respondent graduated from medical school in 1998. He received Texas Medical License No. L-8288 in April 2004.

5. The evidence did not establish whether respondent ever has practiced medicine in California, or whether he plans to do so in the future.

Disciplinary History

6. Effective August 13, 2018, the Texas Medical Board temporarily restricted respondent's Texas medical license. The restriction prohibited respondent from "supervis[ing] or delegat[ing] prescriptive authority to mid-level practitioners outside his current practice setting."

7. The Texas Medical Board made the order described in Finding 6 after finding that respondent had undertaken supervision of two advanced practice nurses at a weight loss clinic, but had failed to supervise them effectively between January 2015 and August 2016. His ineffective supervision permitted those nurses to prescribe testosterone and thyroid hormones inappropriately. Respondent withdrew his supervision when he realized that the nurses were prescribing inappropriately.

8. The order described in Finding 6 states that a further order from the Texas Medical Board will follow. No such further order was in evidence.

9. Respondent testified credibly that the Texas Medical Board did enter a further order, stating conditions he would need to satisfy before the Texas Medical Board would lift its restrictions on his practice. One condition was to complete at least 20 supplementary continuing medical education units, focused on the physician's role in supervising nurses and other "mid-level" practitioners. Another condition was to take and pass the Texas medical jurisprudence examination, which focuses on law and ethics relating to medical practice in Texas. Respondent stated that the Texas Medical Board has given him until August 2020 to meet these requirements, but the evidence at the hearing did not establish that he had completed either of them as of the hearing in September 2019.

10. In addition, respondent testified that he must confer every six to eight weeks with a probation monitor from the Texas Medical Board. The monitor visits the clinic where respondent practices as a physician employee. Respondent believes his Texas Medical Board probation monitor has authority to review his patient records, although she has not done so.

LEGAL CONCLUSIONS

1. The California Board may suspend or revoke respondent's physician's and surgeon's certificate if clear and convincing evidence establishes the facts supporting discipline. The factual findings above reflect this standard.

2. Business and Professions Code sections 2227 and 2234 make a physician's unprofessional conduct grounds for suspension or revocation of the physician's certificate.

3. Unprofessional conduct includes conduct occurring in another state and constituting cause for professional discipline in that state, if such conduct also would constitute cause for discipline in California. (Bus. & Prof. Code, § 2305; see also *id.*, § 141.) Unprofessional conduct in California includes aiding or abetting a violation of the laws governing medical practice, including laws regulating drug prescribing. (*Id.*, §§ 2234, subd. (a); 2242.) The matters stated in Findings 6 through 10 constitute cause for discipline in California under these statutes.

4. The California Board may place a physician's and surgeon's certificate on probation. In this matter, however, an order placing respondent on probation and requiring the California Board's staff members to monitor him will create burdens that do not improve public safety in California, in light of the matters stated in Finding 1. An order reprimanding respondent for his supervision failure and requiring him to complete remedial courses regarding relevant issues will protect the public in California against similar errors in judgment.

ORDER

1. Physician's and Surgeon's Certificate number C 154843, issued to respondent George Erwin Brown, Jr., M.D., is hereby publicly reprimanded in accordance with Business and Professions Code section 2227, subdivision (a)(4).

2. As a condition of this reprimand, within 60 calendar days of the effective date of this order, respondent shall enroll in a course in prescribing practices approved in advance by the California Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully

complete the classroom component of the course not later than six months after respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one year of enrollment. The prescribing practices course shall be at respondent's expense and shall be in addition to the Continuing Medical Education requirements for renewal of licensure.

3. Respondent shall submit a certification of successful completion to the California Board or its designee not later than 15 calendar days after successfully completing the course, or not later than 15 calendar days after the effective date of this order, whichever is later.

4. Respondent's failure to comply with any of these requirements shall be considered a violation of a California Board order and shall constitute unprofessional conduct and a cause for discipline.

DATE: November 26, 2019

DocuSigned by:
Juliet E. Cox
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JULIET E. COX

Administrative Law Judge

Office of Administrative Hearings

XAVIER BECERRA
Attorney General of California
MARY CAIN-SIMON
Supervising Deputy Attorney General
GREG W. CHAMBERS
Deputy Attorney General
State Bar No. 237509
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 510-3382
Facsimile: (415) 703-5480
Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO NOV. 28 2018
BY D. Richards ANALYST

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **George Erwin Brown Jr., M.D.** **14218 Norhill Pointe Dr.** **Houston, TX 77044-5165** **Physician's and Surgeon's Certificate No. C 154843,** Respondent.	Case No. 800-2018-047179 **A C C U S A T I O N**

Complainant alleges:

PARTIES

1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about March 21, 2018, the Medical Board issued Physician's and Surgeon's Certificate Number C 154843 to George Erwin Brown Jr., M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on September 30, 2019, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2004 provides that the Board shall have the responsibility for the enforcement of the disciplinary and criminal provisions of the Medical Practice Act.

5. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

6. Section 2305 of the Code states:

"The revocation, suspension, or other discipline, restriction or limitation imposed by another state upon a license or certificate to practice medicine issued by that state, or the revocation, suspension, or restriction of the authority to practice medicine by any agency of the federal government, that would have been grounds for discipline in California of a licensee under this chapter shall constitute grounds for disciplinary action for unprofessional conduct against the licensee in this state."

7. Section 141 of the Code states:

"(a) For any licensee holding a license issued by a board under the jurisdiction of the department, a disciplinary action taken by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be a ground for disciplinary action by the respective state licensing board. A certified copy of the record of the disciplinary action taken against the licensee by another state, an agency of the federal government, or another country shall be conclusive evidence of the events related therein.

"(b) Nothing in this section shall preclude a board from applying a specific statutory provision in the licensing act administered by that board that provides for discipline based upon a disciplinary action taken against the licensee by another state, an agency of the federal government, or another country."

CAUSE FOR DISCIPLINE

(Discipline, Restriction, or Limitation Imposed by another State)

8. Respondent George Erwin Brown Jr., M.D. is subject to disciplinary action under sections 2305 and 141 of the Code in that on or about August 13, 2018, the Texas Medical Board issued an Order of Temporary Restriction, attached as **Exhibit A** and incorporated herein, prohibiting Respondent from supervising or delegating prescriptive authority to mid-level practitioners outside his current practice setting, after determining Respondent's continuation in the unrestricted practice of medicine posed a continuing threat to public welfare. The circumstances are as follows:

9. The Texas Medical Board found that Respondent, who practiced at Optimum Medical Weight Control and Family Wellness Clinic (Optimum), improperly supervised the acts of his delegates, two Advanced Practice Nurses (APNs). The APNs at issue were temporarily suspended from practice by the Texas Board of Nursing, which found that the APNs had failed to meet the standard of care in their treatment of multiple patients by inappropriately prescribing testosterone and other thyroid hormones.

10. Chart review of eleven patients treated by the APNs at Optimum revealed that the APNs had failed to satisfy the applicable standard of care with respect to the care and treatment provided to each of these patients by incorrectly diagnosing medical conditions and then providing questionable, inappropriate, or dangerous care and treatment, without regard for the patients' long term health and wellbeing.

11. Respondent asserted through counsel that he personally met with the APNs as required, but failed to maintain possession of the executed collaborative agreements and prescriptive authority agreements as required. Respondent also admitted that he failed to document face-to-face encounters with the APNs.

12. Respondent claimed that he reviewed charts as required, but relied on the APNs to select a random representative sampling of medical cases, which the APNs ultimately did not provide in an effort to conceal from Respondent their medical mismanagement of patients.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number C 154843, issued to George Erwin Brown Jr., M.D.;

2. Revoking, suspending or denying approval of George Erwin Brown Jr., M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering George Erwin Brown Jr., M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

4. Taking such other and further action as deemed necessary and proper.

DATED:
November 28, 2018

KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

EXHIBIT A

TEXAS MEDICAL LICENSE NO. L-8288

IN THE MATTER OF	BEFORE THE DISCIPLINARY
THE LICENSE OF	PANEL OF THE
GEORGE ERWIN BROWN, JR., M.D.	TEXAS MEDICAL BOARD

ORDER OF TEMPORARY RESTRICTION
(WITH NOTICE OF HEARING)

On August 13, 2018, came to be heard before the Disciplinary Panel of the Texas Medical Board, (Board), composed of Timothy Webb, J.D., Kandace Farmer, D.O., and Robert Gracia, members of the Board (Panel) duly in session, the matter of the Application for Temporary Suspension or Restriction (WITH NOTICE OF HEARING) of the license of George Erwin Brown, Jr., M.D. (Respondent). Respondent appeared with counsel, Louis Leichter. Michelle A. McFaddin represented Board staff.

In the interests of justice and efficiency, the Board through this Panel granted Staff's Application for Temporary Suspension or Restriction, which is incorporated herein as if set out verbatim; and based upon the agreement of the parties, makes the following Findings and Conclusions of Law and enters this Order of Temporary Restriction against Respondent:

FINDINGS OF FACT

1. Respondent is a Texas physician and holds Texas Medical License No. L-8288 issued by the Board on April 2, 2004, which was in full force and effect at all times material and relevant to this Order. All jurisdictional requirements have been satisfied.

2. At the direction and approval of a committee chair, member of the Executive Committee, or by Sherif Z. Zaafran, M.D., President of the Board, three members of the Board were appointed to sit as a Disciplinary Panel in this matter in accordance with the Medical Practice Act, Title 3, Subtitle B, Texas Occupations Code (Act) §164.059(a) and 22 TEX. ADMIN. CODE §187.56.

3. The Panel convened with Notice pursuant to §164.059(c) of the Act.

4. Respondent practices in and around Port Arthur and Nederland in Jefferson County, Texas. On his public profile, Respondent lists his primary specialty as Family Medicine, but has also practiced in the area of occupational medicine for the last 15 years. However, he has practiced occupational medicine for the past 15 years. He is not Board certified.

5. Respondent acted as the supervising physician of two advanced practice nurses, Kevin G. Morgan, APN, (APN Morgan) and Lou Randall Locke, II, APN (APN Locke) who practiced at Optimum Medical Weight Control and Family Wellness Clinic (Optimum) located at 1003 Nederland Avenue in Nederland, Jefferson County, Texas between January, 2015 and September, 2016.

6. Respondent had previously worked with APN Morgan at Respondent's primary practice site, and based on his lengthy experience with him believed him to be an honest, transparent, and knowledgeable clinician, and as such never thought that APN Morgan would conceal records yet alone engage in the medical mismanagement of patients.

7. A chart review of eleven patients treated at Optimum revealed that APN Morgan and APN Locke failed to satisfy the applicable standard of care with respect to the care and treatment provided to each of these patients by incorrectly diagnosing medical conditions and then providing questionable, inappropriate, or dangerous care and treatment, without regard for their long term health and wellbeing.

8. Respondent asserted through counsel that he personally met with the APNs as required, but failed to maintain possession of the executed collaborative agreement and prescriptive authority agreements as required or to document face-to-face encounters.

9. Respondent reviewed charts as required, but relied on the APNs to select a random representative sampling of medical cases, which they ultimately did not provide in an effort to conceal their medical mismanagement of patients from Respondent.

10. In August 2016 a patient of the APNs presented to Respondent at his primary practice site. A review of the patient's recent medical history and care by the APNs revealed their gross medical mismanagement to Respondent who subsequently undertook a more rigorous evaluation of the APNs' medical management and treatment of their patients.

11. After scrutiny of the previously concealed treatment modalities and drug therapies, Respondent withdrew his supervision on August 31, 2016.

12. Respondent did not require payment for his supervisory role, but provided the

supervision in an effort to assist APN Morgan in opening his clinic to serve the community.

13. . Respondent has supervised multiple mid-levels throughout his tenure mostly at Occucare where he has been employed for approximately the last 11 years. There are no allegations or evidence of deficiencies related to Respondent's current supervision of mid-levels at Occucare.

14. Respondent has no disciplinary history. No suit or claim for malpractice has been made against Respondent.

15. Respondent acknowledged that although he was misled by APNs Morgan and Locke he should have exercised more diligence in his supervisory capacity.

16. Respondent's continued unrestricted practice of medicine, including delegating authority to prescribe controlled substance to mid-level providers, demonstrates that Respondent poses a continuing threat to public welfare.

17. Based on the foregoing 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 Restriction on the date rendered.

CONCLUSIONS OF LAW

Based upon the Findings of Fact, the Panel concludes the following:

1. Respondent's conduct, as described above, shows that Respondent's continuation in the practice of medicine would constitute a continuing threat to the public welfare, as defined by Section 151.002(a)(2) of the Act. 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."

2. Section 164.059 of the Act authorizes the temporary suspension or restriction of a person's medical license upon a determination by a Disciplinary Panel that the person would, by the person's continuation in practice, constitute a continuing threat to the public welfare.

3. 22 TEX. ADMIN. CODE Chapter 187 sets forth the Board's procedural rules for all Board proceedings. 22 TEX. ADMIN. CODE, Chapter 187, Subchapter F, sets forth the Board's rules regarding temporary suspension proceedings.

4. Section 164.053(a)(8) of the Act authorizes the Board to take disciplinary action against Respondent based on his failure to adequately supervise the activities of those working under his supervision.

5. Respondent's conduct, as described above, shows that Respondent's continued practice of medicine, without restriction, could constitute a continuing threat to the public welfare, as defined by Section 151.002(a)(2) of the Act.

ORDER

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

1. Respondent's Texas medical license is hereby temporarily restricted. Respondent shall not supervise or delegate prescriptive authority to mid-level practitioners outside his current practice setting at Occucare International.

2. This Order of Temporary Restriction with Notice of Hearing is final and effective on the date rendered.

3. This Order of Temporary Restriction shall remain until it is superseded by an Order of the Board.

Signed and entered this 15th day of August, 2018.

Timothy Webb, J.D., Chair
Disciplinary Panel
Texas Medical Board

STATE OF TEXAS
COUNTY OF TRAVIS

I, Christine Rodgers certify that I am an official assistant custodian of records for the Texas Medical Board and that this is a true and correct Copy of the original, as it appears on the file in this office.

Witness my official hand and seal of the BOARD.

This 30th Day of August, 2018

Christine Rodgers
Assistant Custodian of Records