

LEGAL CASE NO. 24-0067

LICENSE NO. N1322

IN THE MATTER OF

THE LICENSE OF

MICHAEL PATRICK GALLAGHER, M.D.

BEFORE THE DISCIPLINARY

PANEL OF THE

TEXAS MEDICAL BOARD

ORDER OF TEMPORARY SUSPENSION
(WITHOUT NOTICE OF HEARING)

On October 12, 2023, came to be heard before the Disciplinary Panel (the "Panel") of the Texas Medical Board (the "Board"), composed of Sherif Z. Zaafran, M.D., Chair, Manuel Quinones, Jr., M.D., and Sharon Barnes, members of the Board, duly in session, the matter of the Application for Temporary Suspension (WITHOUT NOTICE OF HEARING) of the license of Michael Patrick Gallagher, M.D. ("Respondent"). Nadia L. Burns 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 physician who lists his primary practice in Frisco, Texas. His reported area of practice is anesthesiology. His license was issued on October 10, 2008.
2. Respondent was acting as the Medical Director for Luxe Med Spa in Wortham, Texas when a Patient died after receiving IV therapy from Luxe's owner, Amber Johnson, on July 10, 2023. The only indication of the delegation agreement between Ms. Johnson and Respondent is an unsigned Medical Director Agreement.
3. Respondent's current practice address is listed as Texas Partners Healthcare Group in Frisco, Texas. (106 miles from Wortham, Texas where Luxe Med Spa is located). Respondent is not listed as a provider on Texas Partners Healthcare Group's website.
4. Luxe did not have any protocols, policies or procedures pertaining to the

administration of IV therapy. The only “protocols” Luxe had were not directed at Luxe’s personnel regarding the administration of IV therapy. Rather, these “protocols” were merely used to vaguely inform Luxe’s patients of the IV therapy process.

5. Respondent’s first inspection of Luxe was on the day of its grand opening, May 6, 2023. Respondent was not onsite at Luxe again until June 10, 2023, and then once more on July 10, 2023, the day the Patient died.

6. Respondent, who was more than 100 miles away from Luxe, failed to properly supervise Amber Johnson, an unlicensed individual performing intravenous (IV) treatments, including administering prescription pharmaceutical solutions, resulting in complications that the Luxe staff were not trained or prepared to manage, resulting in the Patient’s death.

7. The staff at the med spa were performing treatments that required medical licensure. Yet, there were no medically licensed or experienced personnel employed by Luxe physically present in the facility when IV therapy was being administered, putting patients at risk.

8. On July 10, 2023, the Patient received an IV infusion containing: Vit. B complex, ascorbic acid, cyanocobalamin (vitamin B12), and TPN electrolytes. TPN electrolyte solution requires a prescription and is known to cause complications due to the potassium chloride in it.

9. Invoices issued by McKesson Pharmaceuticals to Luxe indicate Respondent was the “Regulatory license” for the Luxe facility which enabled Luxe/Amber Johnson to order TPN, and other prescription solutions, using Respondent’s credentials.

10. Shortly after Amber Johnson started the IV on the Patient, the Patient was found unresponsive. Luxe’s staff started CPR and called 911. The Patient was transported via EMS to Parkview Regional Hospital in Mexia, Texas. Upon arrival at the hospital at 12:17p.m. on July 10, 2023, resuscitation efforts continued, and a diagnosis of unspecified cardiac arrest was made. The Patient was pronounced dead at 12:24p.m. on July 10, 2023. The Patient’s family requested an autopsy which is still pending.

11. Respondent’s actions in improperly allowing an unlicensed delegate, Amber Johnson, to administer prescription drugs to the Patient without the establishment of a physician-patient relationship with the Patient present a continuing threat to the public health, safety, and welfare of Texas citizens.

12. Respondent’s ordering of the prescription medications to be administered by an

unlicensed and unqualified delegate without adequate supervision, oversight, protocols, or properly establishment of physician-patient relationship with patients present a continuing threat to the public health, safety, and welfare of Texas citizens.

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 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.
- b. Section 164.051(a)(6) of the Act fails to practice medicine in an acceptable professional manner consistent with public health and welfare; as described by Board Rules: 190.8(1)(A) failure to treat a patient according to the generally accepted standard of care; 190.8(1)(B) negligence in performing medical services; 190.8(1)(C) failure to use proper diligence in one's professional practice; 190.8(1)(D) failure to safeguard against potential complications; 190.8(1)(G) failure to disclose reasonably foreseeable side effects of a procedure or treatment; and 190.8(1)(H) failure to disclose reasonable alternative treatments to a proposed procedure or treatment.
- c. Section 164.052(a)(17) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's directly or indirectly aiding or abetting

the practice of medicine by a person, partnership, association, or corporation that is not licensed to practice medicine by the Board;

- d. Section 164.053(a)(1) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's commission of an act that violates state or federal law if the act is connected to the practice of medicine.
- e. Section 164.053(a)(4) of the Act authorizes the Board to take disciplinary action against Respondent for writing false or fictitious prescriptions for dangerous drugs or controlled substances.
- f. Section 164.053(a)(5) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent prescribing or administering a drug or treatment that is nontherapeutic in nature or nontherapeutic in the manner the drug or treatment is administered or prescribed.
- g. Section 164.053(a)(6) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent prescribing, administering, or dispensing in a manner inconsistent with public health and welfare, dangerous drugs as defined by Chapter 483, Health and Safety Code.

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

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. N-1322 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 OF HEARING) is conducted and a Disciplinary Panel enters an order; or until it is superseded by a subsequent Order of the Board.

Signed and entered this 12th day of October, 2023



Sherif Z. Zaafran, M.D.,
Chair, Disciplinary Panel
Texas Medical Board