

TEXAS STATE BOARD OF MEDICAL EXAMINERS

IN THE MATTER OF THE) (DULY IN SESSION AT
) (
COMPLAINT AGAINST) (1101 CAMINO LA COSTA
) (SUITE 201
JOHN PARKS TROWBRIDGE, M.D.,) (
RESPONDENT) (AUSTIN, TEXAS

ORDER

On this the 27th day of October, 1990, came on to be heard for final action by the Texas State Board of Medical Examiners, duly in session, the matter of John Parks Trowbridge, M.D., Respondent herein, wherein the Texas State Board of Medical Examiners was represented by Roger Schultz, Staff Attorney, Texas State Board of Medical Examiners, and Respondent was represented by David Hilgers. It was alleged that Respondent violated Section 3.08, subsection (6) of Article 4495b, Texas Revised Civil Statutes. The matter was heard in public hearing on July 10-11, 1990, before Steven L. Martin, Hearing Officer duly appointed by the Texas State Board of Medical Examiners. After consideration of the Proposal for Decision submitted to the Texas State Board of Medical Examiners by the Hearing Officer and argument of counsel, the Texas State Board of Medical Examiner makes the following Findings of Fact:

FINDINGS OF FACT

1. Respondent is a physician licensed by the Texas State Board of Medical Examiners.

2. A hearing in this matter was held on July 10-11, 1990, in the offices of the Texas State Board of Medical Examiners, at 1101 Camino La Costa, Suite 201, Austin, Texas.

3. Proper and timely notice of the hearing was provided to all parties.

4. Present for the hearing were Steven L. Martin, Hearing Officer; Roger Schultz, Staff Attorney, Texas State Board of Medical Examiners; John Parks Trowbridge, M.D., Respondent; and David W. Hilgers and Betsy H. Bender, attorneys for Respondent.

5. Witnesses testifying at the hearing were Robert A. Ersek, M.D., and Rogers Coleman, M.D., witnesses on behalf of the Texas State Board of Medical Examiners; James P. Carter, M.D., witness on behalf of Respondent; and Amanda Wagner, Richadeane Williams, and Emery Tekacs, patients of Respondent and witnesses on his behalf.

6. The hearing was conducted pursuant to, and under the authority of, Article 4495b, Texas Revised Civil Statutes; Article 6252-13a, Texas Revised Civil Statutes; Hearing Rules of the Texas State Board of Medical Examiners; and pertinent Texas Rules of Civil Procedure.

7. The Face2 Nonsurgical Facelift brochure identifies the "nonsurgical facelift" procedure as a refinement of the chemical peel process.

8. The term "facelift" is commonly used in reference to a chemical peel procedure.

9. The term "nonsurgical facelift" is a common term used to refer to a chemical peel procedure.

10. The term "nonsurgical facelift" implies that no surgery will be done.

11. "Nonsurgical facelift" is not a conflict of terms in the commonly accepted and understood manner in which it is used.

12. The AMA Book of Skin and Hair Care contains the following statement: "This treatment [superficial chemosurgery using caustic agents] is very effective in the improvement of perioral (around the mouth) and periorbital (around the eyes) wrinkling. No other modality has given as satisfactory a result."

13. The terms "AMA" and "American Medical Association" are prominently displayed throughout the AMA Book of Skin and Hair Care.

14. The title page of AMA Book of Skin and Hair Care indicates the book was prepared in consultation with members of the AMA Committee on Cutaneous Health and Cosmetics.

15. The AMA Book of Skin and Hair Care indicates that AMA staff aided in preparation of the book.

16. The AMA Book of Skin and Hair Care is identified as "this guide from the American Medical Association."

17. The AMA Book of Skin and Hair Care indicates copyright by the American Medical Association for 1971 and 1976.

18. At the time Respondent made statements that the chemical peel process he utilized was based on the method approved as effective by the American Medical Association, no communication had been made to Respondent that the AMA position was that they had not approved any general or specific method of the chemical peel procedure.

19. At the time Respondent was notified that there was a question as to his statement regarding AMA approval, Respondent ceased to make or distribute such statement.

20. The chemical peel process affects the physiological aging process and causes an individual to appear younger.

21. A potential patient of Respondent's would not believe that the chronological aging process was reversed or slowed.

22. In the context of Respondent's brochure, "Face2 Nonsurgical Facelift" (Board's Exhibit 2), the statement that the process "slows down aging" is explained to mean changes in the physiological aging process.

23. Within the two sets of two photographs in Respondent's brochure (Board's Exhibit 2) the one on the left in each case is the "before" picture and the one on the right is the "after" picture.

24. It is standard practice with "before" and "after" pictures for the "before" picture to be on the left and the "after" picture to be on the right.

Based on the above Findings of Fact, the Board makes the following Conclusions of Law:

CONCLUSIONS OF LAW

1. There was no evidence that Respondent's statements concerning chelation therapy were false, misleading, or deceptive.

2. Respondent did not engage in the use of an advertising statement that is false, misleading or deceptive.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Texas State Board of Medical Examiners take no action against the license to practice medicine within the state of Texas heretofore held by John Parks Trowbridge, M.D.

RENDERED AND ENTERED, this 27th day of October, 1990.


President

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c. "Based on the method approved as effective by the American Medical Association,..." the American Medical Association does not approve methods of treatment generally and has not approved this method specifically, and is false;

d. "FACE 2 tm slows down aging" - is not supported by any medical evidence and is false;

e. There is no identification of ladies in the photographs as patients who have undergone the treatment and which picture is "before" and which picture is "after", leaving the impression that the more flattering picture is a result of the treatment and is misleading and deceptive;

All of which are a violation of section 3.08(6) of the Medical Practice Act, use of any advertising statement that is false, misleading, or deceptive.

Count II

The Respondent advertised that chelation therapy will

a. "...make stronger bones, partly because toxic metals that are present in the bone structure (in place of the usual calcium) are removed and new bone is made with stronger calcium in place" is unsupported by medical evidence and is misleading;

b. reverse or delay aging and disease changes, so as to advertise chelation therapy as the "Fountain of Youth", is misleading and deceptive;

c. "75-80 out of 100 patients having excellent results" is unsupported by any medical or statistical evidence and there is no objective standards by which to define "excellent results" and is deceptive;

d. EDTA interrupting "free radical attacks" is unsupported by any medical evidence as to how EDTA causes changes to prevent or preclude atherosclerosis, arthritis, cancer, inflammation, and allergies and is deceptive;

All of which are a violation of section 3.08(6) of the Medical Practice Act, use of any advertising statement that is false, misleading, or deceptive.

Count III

Cytotoxic allergy testing advertising that was misleading as to what the indications are for being cytotoxically tested. Among those cited in the advertisement were when there were obvious allergies or allergy symptoms, and when two or three physicians can not tell the patient what is wrong with the patient and being overweight;

All of which are a violation of section 3.08(6) of the Medical Practice Act, use of any advertising statement that is false, misleading, or deceptive.

III

The Respondent by his actions, conduct and behavior has violated section 3.08(6) of the Medical Practice Act of Texas.

The Respondent's violation of section 3.08(6) of the Act is grounds for cancellation, revocation or suspension of the Respondent's license to practice medicine in the State of Texas pursuant to section 4.01 of the Act.

The Respondent's violation of section 3.08(6) of the Act is grounds for the Board to enter an order imposing other means of discipline upon the Respondent pursuant to section 4.12 of the Act.

The Respondent's violation of section 3.08(6) of the Act resulting in the cancellation, revocation or suspension of the Respondent's Texas medical license or the imposition of other means of discipline may be probated pursuant to section 4.11 of the Act.

WHEREFORE, PREMISES CONSIDERED, it is prayed that a hearing on this complaint be held before the Texas State Board of Medical Examiners and that the Board enter its order herein to (1) cancel,

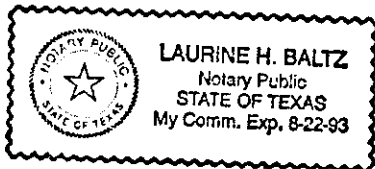
revoke or suspend the Respondent's medical license; (2) impose other means of discipline, or (3) probate the cancellation, revocation, suspension or the Respondent's Texas medical license, or the imposition of other means of discipline.

Respectfully submitted,

Arnoldo G. Garza
Arnoldo G. Garza
Director of Hearings

THE STATE OF TEXAS)
)
COUNTY OF TRAVIS)

SUBSCRIBED AND SWORN to before me by the said Arnoldo G. Garza on this the 29th day of January, 1990.



Laurine H. Baltz
Notary Public, State of Texas

Filed with the Texas State Board of Medical Examiners on this the 29th day of January, 1990.

G. V. Brindley, Jr.
G. V. Brindley, Jr., M.D.
Executive Director
Texas State Board of Medical
Examiners