

BEFORE THE  
NORTH CAROLINA MEDICAL BOARD

In re:	)	
	)	
Rashid Ali Buttar, D.O.,	)	MOTION TO STAY PROCEEDINGS
	)	AND RESPONSE TO NOTICE OF
Respondent.	)	CHARGES AND ALLEGATIONS
	)	

NOW COMES the Respondent, Rashid Ali Buttar, D.O., and responds to the charges and allegations served on him on March 25, 2009, as follows:

**MOTION TO STAY PROCEEDINGS**

On February 18, 2009, the Respondent, Rashid Ali Buttar, filed a Petition for Judicial Review and Injunctive Relief with the Superior Court of Wake County. That Petition is currently pending for judicial review of prior rulings made by the past President of the Medical Board, Dr. Jannelle Rhyne, when she declared a mistrial of the hearing on Respondent's prior Notice of Charges filed in November of 2007. Dr. Buttar filed an Amended Petition for Judicial Review and Injunctive Relief with the Wake County Superior Court on March 13, 2009, a copy of that Amended Petition is attached hereto as Exhibit A. In that Petition, Dr. Buttar asks that the Court modify the January 30, 2009 ruling of Dr. Jannelle Rhyne such that any de novo hearing on any Notice of Charges issued by the Medical Board against Dr. Buttar be held before an Administrative Law Judge. The Petition also requests that this Court issue a stay preventing Respondent from issuing a new Notice of Hearing on Charges unless that hearing is to be conducted by an Administrative Law Judge.

**RESPONSE TO NOTICE  
OF CHARGES AND ALLEGATIONS**

1. Paragraph 1 is an allegation of law and not of fact and is, therefore, denied.
- 2-4. Admitted.
5. Concerning the allegations of paragraph 5, it is admitted that Patient A presented to the Respondent with a diagnosis of cervical cancer which had metastasized to her liver and lungs at the time she started treatment with him.
6. Concerning the allegations of paragraph 6, it is admitted that Patient B was diagnosed with ovarian cancer in 2002 which, at the time of surgery, had spread throughout her abdomen and liver. In 2002 and 2003, she underwent chemotherapy which was unsuccessful and, in April 2004, was directed to the Respondent by her family doctor.
7. Concerning the allegations of paragraph 7, it is admitted that Patient C had a diagnosis of adrenal carcinoma which had metastasized to his lungs.

8. Concerning the allegations of paragraph 8, the Respondent states that, at the time of Patients A, B and C's deaths, he was not treating them and has no personal knowledge as to their causes of death. The Respondent is informed and believes that Patients A and B succumbed to their cancer, and that Patient C died of a pulmonary embolism.

9. Denied. With regard to Patient A, the Respondent's records do not reflect how she was referred to him for treatment. However, the Medical Board's investigation states that Patient A's daughter referred her mother to the Respondent for treatment of cervical cancer which had metastasized to the lung and liver, and for which conventional medical treatment had been discontinued due to lack of efficacy.

Patient A signed a consent to treatment (which was witnessed) that specifically admitted that no claim from the Respondent to cure cancer with therapies had been made.

With regard to Patient B, the Respondent's records reflect that this patient was referred to the Respondent by her family physician and, prior to beginning treatment with the Respondent, Patient B signed a consent to treatment that specifically admitted that no claim from the Respondent to cure cancer with therapies had been made.

With regard to Patient C, it appears that he was self-referred to the Respondent through a web search. He also signed a consent to treatment in which he specifically agreed that no claim to cure cancer with the Respondent's therapies had been made to him.

10. Denied. The Respondent will present scientific evidence before the Board of the efficacy of all treatments rendered in his practice to Patients A, B and C. Further, N.C.G.S. § 90-14(a)(6) specifically states that: "The Board shall not revoke the license of or deny a license to a person solely because of that person's practice of a therapy that is experimental, nontraditional, or that departs from acceptable and prevailing medical practices unless, by competent evidence, the Board can establish that the treatment has a safety risk greater than the prevailing treatment or that the treatment is generally not effective."

11. Concerning the allegations of paragraph 11, the first sentence is completely and totally denied. Concerning the allegations in the second sentence regarding the costs of treatment for individual patients, the billing statements for each of the patients vary and the total amount billed for each patient is reflected thereon. Concerning the third sentence of this allegation, it is specifically denied that the Respondent ordered therapies in an attempt to drive up billings. Rather, he ordered therapies as were necessary (in his judgment) to the treatment of the patients. In addition, it is specifically denied that he ordered tests and lab work with no rational medical relationship to the patients' cancer diagnoses. Rather, he ordered tests and lab work which were (in his professional opinion) necessary to the treatment of these patients. Finally, with regard to the allegations of the fourth sentence of paragraph 11, it is specifically denied that the tests and lab work ordered by the Respondent were never adequately justified or linked to the patients' diagnoses and clinical conditions or, in some cases, never interpreted. All tests and lab work were necessary in the judgment of the Respondent to the treatment of the patients, and all were used in connection with the treatment of these patients.

Furthermore, all rationale used to treat above-mentioned patients has been taught in an ACCME accredited, AMA Category 1 CME approved course and are within the standard of care for a physician practicing integrative medicine in North Carolina for the relevant time periods.

12. The allegations of all of the sentences of paragraph 12 are specifically denied. All testing and lab work was, in the opinion of the Respondent, necessary for the treatment of his patients.

13. The allegations of all sentences of paragraph 13 are specifically denied. Patients A, B and C all clinically showed efficacy of treatment and objective evidence of improvement.

14. Concerning the allegations of paragraph 14, the billing statements for Patient A have been submitted to the Medical Board and speak for themselves. Both as to the dates of treatment and amount of charges, it is admitted that Patient A received treatment for approximately one month, and that she came to the Respondent with advanced cancer after conventional treatments had failed. The Respondent's treatment of Patient A was not limited to the administration of hydrogen peroxide. A complete list of treatments administered by the Respondent is contained in the billing statements for this patient. It is admitted that Patient A paid \$360.00 by credit card for her initial office visit and made an advance payment of \$12,000 against which other tests and treatments were credited. The total number of office visits for this patient is documented in the billing records, as is additional billing amounts. It is admitted that, at the conclusion of her treatment, certain items were returned which resulted in a credit and refund. The Respondent saw Patient A on a number of occasions without charging her. Except as specifically admitted, the remainder of the allegations of paragraph 14 are denied.

15. Denied. The billing statements for Patient B have been submitted to the Medical Board and they speak for themselves. Respondent treated Patient B with clinical therapies that in his professional judgment and experience were effective. The Respondent personally examined this patient, and his notes reflect evidence of clinical improvement over the course of her treatments.

16. Concerning the allegations of paragraph 16, the billing statements for Patient B (which have been submitted to the Medical Board) speak for themselves. It is admitted that the Respondent's practice did seek collection from Patient B's estate for a balance outstanding at the time of her death; however, no amounts were ever collected from Patient B's estate. Except as specifically admitted, the remainder of the allegations of paragraph 16 are denied.

17. Concerning the allegations of paragraph 17, it is denied the Respondent charged Patient C for treatments he knew were ineffective. In fact, Respondent only used treatments that in his clinical judgment and experience were effective. With regard to the amounts of the charges for Patient C, the Respondent's billing records have been submitted to the Medical Board and speak for themselves. It is admitted that, prior to his death, Patient C attempted to pay a final bill by check, and it is admitted that Patient C's spouse stopped payment on that check. It is further admitted that the Respondent's staff witnessed numerous angry phone conversations between Patient C and his wife, who was not supportive of the Respondent's treatment. Patient C specifically related to the Respondent on two separate occasions that he was depressed over the fact that his wife cared more about her financial status than his life. It is admitted that, after Patient C's spouse stopped payment

on a check that Patient C had written to the Respondent, Patient C's account (after his death) was referred to a collection agency. Except as specifically admitted, the remainder of the allegations of the paragraph are denied.

18. The allegations of paragraph 18 are specifically denied. Under N.C.G.S. § 90-1.1(3), "integrative medicine is a diagnostic or therapeutic treatment that may not be considered a conventionally accepted medical treatment and that a licensed physician in the physician's professional opinion believes may be of potential benefit to the patient, so long as the treatment poses no greater risk of harm to the patient than the comparable conventional treatments." The Respondent is an integrative medicine physician. In addition, under N.C.G.S. § 90-14(a)(6), "the Board shall not revoke the license of or deny a license to a person solely because of that person's practice of a therapy that is experimental, nontraditional, or that departs from acceptable and prevailing medical practices unless, by competent evidence, the Board can establish that the treatment has a safety risk greater than the prevailing treatment or that the treatment is generally not effective." The allegations of the Board's complaint against the Respondent do not state that the Respondent's treatments posed a safety risk greater than the prevailing treatment, nor do they show that the Respondent's treatment was generally not effective. In fact, the Respondent's treatment was documented in some individual patient files as being more effective than the standard treatment of those individual patients and the Respondent will supply medical and scientific proof that the treatments used by him on patients are effective in treating various conditions.

19. The allegations of paragraph 19 are denied. Respondent's treatments do not pose a safety risk that is greater than prevailing treatment.

20. The allegations of paragraph 20 are denied. The Respondent did not directly solicit any of the patients cited in the Medical Board's charges. In fact, patients are routinely referred by other patients or their physicians to the Respondent. All patients, and particularly cancer patients, sign a statement recognizing that the Respondent does not make any specific representations about his treatments or their effect on cancer. All patients also sign clear financial policies which state that patients are directly responsible for all charges.

**FURTHER RESPONSE**  
**TO NOTICE OF CHARGES**

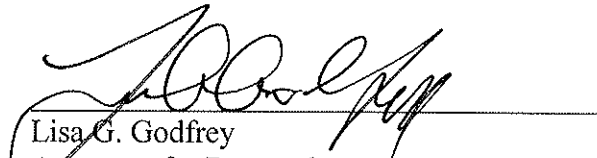
In further response to the Notice of Charges is attached the Affidavit of Rashid A. Buttar, D.O.

WHEREFORE, the Respondent respectfully requests:

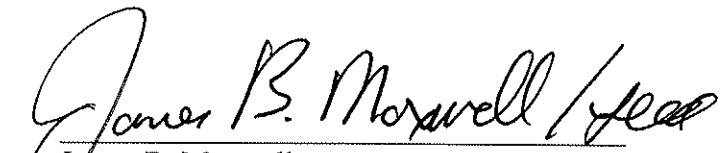
- (1) That the hearing in this Notice of Charges be stayed until the Superior Court of Wake County has ruled on Respondent's Petition for Judicial and Injunctive Relief;
- (2) That the charges and allegations against him be dismissed;
- (3) That the Board take no disciplinary action against him after hearing the evidence on the charges presented.

Respectfully submitted, this the 22 day of May, 2009.

  
H. Edward Knox

  
Lisa G. Godfrey  
Attorneys for Respondent

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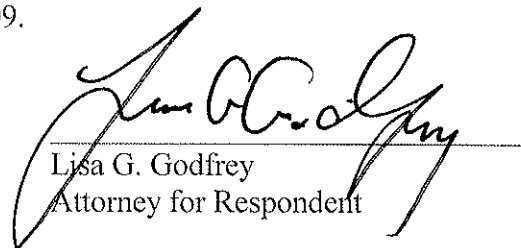
CERTIFICATE OF SERVICE

I, Lisa G. Godfrey, Attorney for Respondent, certify that I have this day served a copy of the foregoing **MOTION TO STAY PROCEEDINGS AND RESPONSE TO NOTICE OF CHARGES AND ALLEGATIONS** on the following individual, a copy of same via e-mail, addressed as follows:

VIA E-MAIL Marcus.Jimison@NCMEDBOARD.ORG

Mr. Marcus B. Jimison  
North Carolina Medical Board  
Post Office Box 20007  
Raleigh, NC 27619-0007

This the 22 day of May, 2009.

  
\_\_\_\_\_  
Lisa G. Godfrey  
Attorney for Respondent

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
09-CvS-003419

RASHID A. BUTTAR, D.O., )  
 )  
Petitioner, )  
 )  
vs. )  
 )  
NORTH CAROLINA MEDICAL BOARD, )  
 )  
Respondent. )  
\_\_\_\_\_ )

**AMENDED  
PETITION FOR JUDICIAL  
REVIEW AND  
INJUNCTIVE RELIEF**

NOW COMES the Petitioner complaining of the Respondent, and alleges and says:

1. The Petitioner is a Doctor of Osteopathic Medicine who resides and practices in Mecklenburg County, North Carolina.
2. The Respondent is a Board created by N.C.G.S. § 90-2 to regulate the practice of medicine and surgery for the benefit and protection of the people of North Carolina.
3. This Court has jurisdiction over this matter pursuant to N.C.G.S. § 150B-43.
4. The Petitioner practices Integrative Medicine in Huntersville, North Carolina. He has been licensed to practice medicine and surgery by the North Carolina Medical Board since May 20, 1995. The Petitioner has never had a medical malpractice claim made against him in 18 years of practicing medicine and continues to hold an unrestricted license to practice medicine.
5. Petitioner was trained in general surgery and emergency medicine and has practiced over 10,000 hours of documented emergency medicine in the State of North Carolina and South Carolina. Petitioner is Board Certified in Clinical Metal Toxicology and Board Eligible in Emergency Medicine. Petitioner has also attained Fellowship status in three separate medical societies. Petitioner is a Fellow of the American Academy of Preventive Medicine, the American College for Advancement in Medicine and the American Association of Integrative Medicine.
6. Petitioner has patients that have come seeking medical treatment specifically from him, traveling from thirty-three different countries all over the world, as well as from all over the United States as a consequence of unique treatments and the results achieved by the Petitioner's Practice.
7. Petitioner has lectured in seventeen different countries all over the world as well as all over the United States and is a commonly requested speaker and presenter at numerous

medical conferences, lecturing to as many as 2,500 doctors at a time, and has presented professional lectures in excess of 140 times in the last six years.

8. Petitioner served on the state level as President of the North Carolina Integrative Medical Society for three terms, from 2003 until 2008.

9. Petitioner currently serves on the national level as Chairman of the American Board of Clinical Metal Toxicology and has served in this capacity since 2006.

10. Petitioner has also served as Curriculum Chair, Treasurer and Vice Chairman of the American Board of Clinical Metal Toxicology previous to being elected Chairman in 2006. The Petitioner has also served in various capacities on various boards of different medical organizations over the last ten years.

11. In December 2001, the Petitioner received an unannounced visit from an investigator of the North Carolina Medical Board who asked to randomly review medical charts maintained by the Petitioner. At that time, there was no outstanding complaint, and the investigator did not give a reason for the visit.

12. The North Carolina Medical Board investigator re-visited Petitioner's office in January 2002 to pick up the records, as requested.

13. In June 2002, the North Carolina Medical Board, again, visited the Petitioner's office unannounced to ask further questions regarding Petitioner's practice. Again, the Petitioner was assured that there were no outstanding complaints against him.

14. In September 2002, an investigator from the North Carolina Medical Board, again, visited the Petitioner's office unannounced to ask further questions. At this time, there were still no complaints against the Petitioner.

15. In January 2003, an investigator of the North Carolina Medical Board, again, visited the Petitioner's office unannounced and asked further questions. There were still no complaints that were being investigated on behalf of the Respondent against the Petitioner. The investigator asked the Petitioner to contact the NCMB because she was uncertain as to why she was being repetitively sent to the Petitioner's office.

16. In February 2003, the Petitioner was instrumental in forming the North Carolina Integrative Medical Society. The North Carolina Integrative Medical Society (NCIMS) was formed because integrative medical physicians in North Carolina believed they were subject to unfair and discriminatory actions.

17. At the second meeting of that group, the Petitioner was voted President, and this group of physicians voted to begin an effort to lobby the North Carolina General Assembly for a change in the laws relating to the North Carolina Medical Board.



18. On April 21, 2003, a press conference was arranged by the North Carolina Integrative Medical Society at the State Capitol in Raleigh to announce its intentions with regard to the reform legislation. Petitioner spoke strongly against the Respondent's unfair and discriminatory actions against doctors practicing specific forms of natural medicine (such as metal toxicity, nutritional intervention, general detoxification, oxidative treatments, lifestyle changes, etc.) and the Respondent's obvious laxity in disciplining doctors that have recurrent issues of malpractice and/or the negligent practice of medicine causing documented medical harm to the public.

19. The North Carolina Medical Board and the North Carolina Medical Society attempted to dissuade Petitioner from providing testimony (scheduled as a result of the press conference) to the House Health Committee the following day. During the meeting, counsel for the North Carolina Medical Board stated in public forum that the Board had a very tough time keeping up with complaints that needed to be investigated, citing that over 1,750 complaints arise each year and the Medical Board has to select the 350 worst claims on which to follow up and investigate.

20. When asked by North Carolina Integrative Medical Society lobbyist, Janis Ramquist, in light of the above statement, why the North Carolina Medical Board was investigating the Petitioner, Medical Board counsel Thomas Mansfield responded, "Dr. Buttar's case was an anomaly." Still no complaint or charge was made against the Petitioner, despite five visits by the Respondent and seventeen months of time having transpired.

21. On April 22, 2003, the Petitioner testified in front of the North Carolina House Health Committee in favor of Session Law 2003-366 (House Bill 886) which is entitled "An Act to Amend Certain Provisions of Article 1, Chapter 90 of the General Statutes Relating to the North Carolina Medical Board and the Practice of Medicine" and referred to the Respondent as a "rogue cop" violating Due Process for physicians and ignoring the law passed in 1993 by the North Carolina legislature.

22. After the Petitioner's testimony, the bill passed the House by a vote of 110 to 6. The bill was ratified and passed by the General Assembly on July 18, 2003, and signed into law by Governor Easley on August 1, 2003.

23. On May 7, 2003, approximately two weeks after the Petitioner testified in favor of Session Law 2003-366, the North Carolina Medical Board sent to the Petitioner a letter asking him to appear in a non-public informal inquiry before a committee of the Board on June 19, 2003, to discuss his "practice of medicine in general . . . involvement with Trans D-Tropin and V-SAB Labs, and his research studies." The letter warned the Petitioner that he was entitled to be accompanied by counsel and that he would be read a statement of his rights.

24. This same week, Petitioner was independently ranked among the Top 50 Doctors in the United States by Dr. Steven Sinatra from the University of Connecticut, School of Medicine, Philips Publishing and Healthy Directions, Inc.

25. Upon receipt of the request for an informal inquiry before the Board in 2003, the Petitioner made request to counsel to record the informal interview. This request was denied by the Executive Director of the Medical Board.

26. Thereafter Petitioner filed an action in Mecklenburg County Superior Court against the North Carolina Medical Board requesting a temporary restraining order and a mandatory injunction requiring the Board to allow Petitioner to have a court reporter present during the informal inquiry session.

27. After appearing before a Superior Court Judge, counsel to the Board and Petitioner reached a settlement agreement in which the Petitioner was permitted to record the informal inquiry before the Board.

28. The Board conducted the informal interview with the Petitioner on January 22, 2004. Following that inquiry, the Executive Director of the Medical Board wrote to the Petitioner to inform him that the Board would be taking no further action against him and stated in part:

In a world full of new approaches to health care, the Board is reassured that you, as one of its licensees, understand the importance of upholding the fundamental precepts of medicine establishing a therapeutic relationship with patients based on their best interests; bringing to them all of the available knowledge and information; providing full disclosure; and keeping complete and accurate records; and providing appropriate continuity of care.

29. In 2004, Petitioner was invited to give special testimony in front of the United States Congress. He testified on May 6, 2004, in front of the Congressional Subcommittee on Human Rights and Wellness in Washington, D.C., on the subject of children suffering from Autism and Autism Spectrum Disorder. The Petitioner gave testimony of the relationship between heavy metal toxicity and its causative effect in the developing mind of children, resulting in developmental delays and Autism.

30. Petitioner was accompanied by ten children that were his patients. These children recovered while using his treatment for this affliction and included his own son who remains the youngest formal witness ever to testify in front of the US Congress at the age of five. These events are reported in the best selling book Evidence of Harm: Mercury in Vaccines and the Autism Epidemic: A Medical Controversy by David Kirby.

31. In 2005, Petitioner founded and became President of the Advanced Medical Education and Services, Physician Services (AMESPA). This organization provided fully accredited ACCME continuing medical education courses to physicians in fields of integrative and alternative medicine. Petitioner conducted four courses with independent auditors assigned from a local continuing medical education provider, Charlotte AHEC, and received the highest evaluation scores for the 2005 courses accredited through Charlotte AHEC.

32. In 2006, Petitioner was informed by the Director of Charlotte AHEC that she had been pressured about discontinuing the medical education accreditation for the courses taught

through AMESPA. The Medical Director told Petitioner that “the powers that be” were putting a lot of pressure on Charlotte AHEC to drop the accreditation for the Petitioner’s courses because it was “legitimizing integrative medicine” and “they will NOT allow that to occur.”

33. In 2005, Petitioner was notified by the staff of Congressman Istook of Oklahoma that he had been nominated for the National Institute of Health “Directors Innovative Pioneer Award” by Congressman Dan Burton of Indiana and Congresswoman Diane Watson of California for his internationally recognized work in treating children afflicted with developmental delays and the Autism Spectrum disorders.

34. In 2006, Petitioner was elected to serve on the Board of American Association for Health Freedom in Washington, D.C.

35. In 2006, Petitioner became the President for the Centers for Advanced Medicine Physician Associates (CAMPA).

36. In mid 2006, Petitioner received another visit from a North Carolina Medical Board Investigator. Petitioner was informed that there were four complaints against him from 2004 to 2006. Of the four complaining parties, Petitioner had never met any of them.

37. One of the four was a patient who was seen by Petitioner’s Nurse Practitioner. That patient who was self referred for heavy metal toxicity was dismissed from the Practice because she attempted to reverse credit card charges she had made for her treatment. That patient then threatened Petitioner’s Practice that she would complain to the NCMB if she did not get a refund for services that had already been rendered.

38. When patient was not refunded, she filed suit against the Petitioner, who counter sued to collect the outstanding balance of the bill from the patient. Petitioner was granted a default judgment because the patient failed to attend the trial of the case.

39. The other three complaints were from individuals who have never met the Petitioner, never visited the Petitioner’s practice, and had not participated in the care of the patients they were complaining about. All the complaints involved terminally ill cancer patients. All three of the terminally ill patients sought the Petitioner out. All three of the terminally ill patients were NOT willing to accept their prognosis and each one wanted to pursue an “alternative” and “integrative” approach to their illness. All three of the cancer patients in question outlived their life expectancy with documented and witnessed improvement in their quality of life.

40. One complaint was from a family practice doctor that had previously treated one of the terminally ill cancer patients. That patient’s family was not aware that the doctor was bringing the complaint against Petitioner. The second complaint was from a nephew of a patient who resided in California. The patient’s friends and family who had participated directly in her care did not lodge any complaint. The third complaint was from the wife of a patient who was opposed to his seeking alternative treatment for his terminal cancer. The complaining party in

that case had stopped payment on a check after the patient's death that the patient himself had written to Petitioner's Practice.

41. In November 20, 2007, approximately seventeen months after the NCMB investigator had collected the charts of the above four cases, the North Carolina Medical Board issued a Notice of Charges and Allegations and Notice of Hearing against Petitioner. The charges alleged that the Petitioner had breached the standards of care in his treatment of four patients.

42. On April 23, 2008, the Hearing Panel of the Medical Board heard evidence regarding the charges. At the end of the hearing, the Panel found that the Petitioner had breached the standard of care and exploited the three cancer patients. The fourth patient did not testify at the hearing and no findings were made on the complaint. The Hearing Panel recommended that the Petitioner's license be suspended with the suspension being stayed provided that the Petitioner did not treat cancer patients or children (despite the fact that no children were in the complaints the Board was considering) and that he not use certain therapies on other patients.

43. Following the Hearing Panel's decision, it came to light that a member of the Medical Board's investigative staff had improper *ex parte* contact with a member of the Hearing Panel during a break in hearing proceedings. It was evident that the *ex parte* communication affected the Panel's deliberations. Notwithstanding the improper contact and with knowledge by counsel for the Medical Board, neither the members of the Board nor Petitioner's counsel were informed of the *ex parte* contact until two months after the hearing.

44. Once the *ex parte* communications came to light, counsel to the Petitioner filed a Motion to Declare a Mistrial with the Presiding Officer of the Hearing Panel on September 15, 2008. The Petitioner requested in the Motion that any re-trial of the Notice of Charges against Petitioner be heard by an Administrative Law Judge.

45. On January 30, 2009, the Presiding Officer of the Hearing Panel, Dr. Jannelle Rhyne, issued an Order granting Petitioner's Motion for a new hearing before a new panel of the Board. The Order effectively denied Petitioner's request to have the matter heard by an Administrative Law Judge.

46. The original Notice of Charges, along with the Recommendations of the Hearing panel were published on the Web Site of the North Carolina Medical Board and were available to all members of the North Carolina Medical Board as well as the general public.

47. Petitioner has publicly and vehemently opposed the oppressive actions of a number of Medical Boards throughout the country, especially the North Carolina Medical Board, against doctors practicing integrative medicine.

48. Petitioner has publicly stated on multiple occasions that the North Carolina Medical Board is a.) "protecting the status quo, under the pretence of protecting the public", b.) "failed to protect the interest of the citizens of North Carolina by following their own agenda of achieving high Nader ratings and the Federation of States Medical Boards' (FSMB) agenda of

eliminating holistic, alternative and integrative medicine as practiced by licensed medical doctors” and c.) “protecting the interests and market share of the NC Medical Society.” All the above is demonstrated by present and past cases against integrative doctors whose only crime was helping their patients after conventional doctors failed to help. Petitioner has a well established reputation over the last eight years of openly expressing this opinion and is well known in the medical communities of North Carolina as well as a number of other states for his candid public opinions. Petitioner has furthermore served as an Expert Witness in no less than 3 Federal cases on this and other related issues.

49. Due to the long history of the Petitioner’s encounters with the North Carolina Medical Board and the Board’s demonstrated prejudice against practitioners of alternative and integrative medicine, Petitioner is unable to receive a fair and impartial hearing from any members of the Medical Board.

50. The Request for Relief in Petitioner’s Motion to Declare a Mistrial specifically requested that the Presiding Officer of the Hearing Panel grant a new de novo hearing before an administrative law judge pursuant to N.C.G.S. § 150B-40(e).

51. Because the Order entered by the Presiding Officer of the Hearing Panel did not grant the release requested by the Petitioner, this Court has jurisdiction to review and modify the ruling. If the Petitioner is forced to exhaust all administrative remedies, he will have to go through a second administrative hearing before the Panel of the North Carolina Board which has demonstrated prejudice against the Petitioners and the type of medicine practiced by the Petitioner.

52. The Petitioner should be relieved of the requirement of exhausting administrative remedies and has the right to petition directly to the General Court of Justice, Superior Court Division, for an injunction requiring the de novo hearing of the charges against the Petitioner to be conducted by an Administrative Law Judge.

#### **FIRST CAUSE OF ACTION**

53. The allegations of paragraphs 1 – 52 are incorporated herein by reference as if set forth fully.

54. The Respondent’s refusal to grant Petitioner’s Petition for an Administrative Law Judge to hear and decide the evidence at the de nova hearing of the Petitioner’s Notice of Charges is an arbitrary and capricious abuse of discretion and should be overturned.

#### **SECOND CAUSE OF ACTION**

55. The allegations of paragraphs 1 – 54 are incorporated herein by reference as if set forth fully.

56. As a direct and proximate result of the ruling requiring Petitioner to submit to a second hearing before a new panel of the North Carolina Medical Board, the Petitioner will

suffer immediate and irreparable injury if the de novo hearing is allowed to proceed without an impartial decision maker.

57. Pursuant to N.C.G.S. § 150B-48, the Petitioner is entitled to a stay preventing Respondent from issuing a new Notice of Charges and Notice of Hearing on those charges unless said hearing is to be conducted by an Administrative Law Judge.

WHEREFORE, the Petitioner respectfully prays the Court:

1. That the Order dated January 30, 2009 of Dr. Janelle Rhyne, Past President of the North Carolina Medical Board and Presiding Officer of the Hearing Panel that heard evidence on the Charges against Petitioner, be modified to state that the de novo hearing on any Notice of Charges issued by the Medical Board against the Petitioner be held before an Administrative Law Judge;

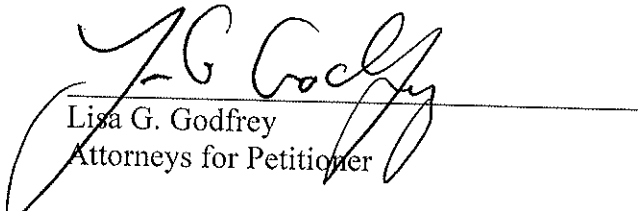
2. That this Court issue a stay preventing Respondent from issuing a new Notice of Charges and Notice of Hearing on those charges unless said hearing is to be conducted by an Administrative Law Judge;

3. That the costs of this action be taxed against the Respondent;

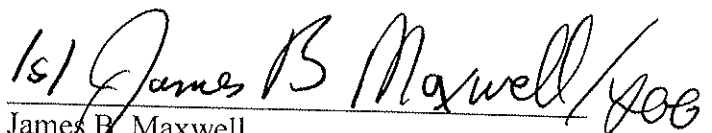
4. For such and other further relief as to the Court seems just and proper.

Respectfully submitted, this the 5 day of March, 2009.

  
H. Edward Knox

  
Lisa G. Godfrey  
Attorneys for Petitioner

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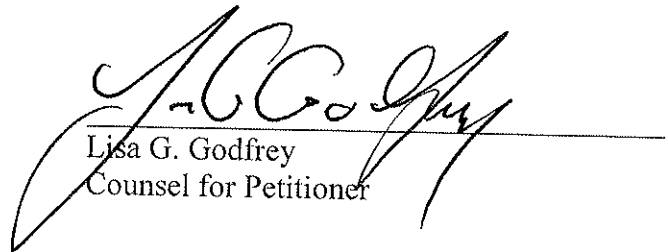
**CERTIFICATE OF SERVICE**

I, Lisa G. Godfrey, Attorney for Petitioner, certify that I have this day served a copy of the foregoing **AMENDED PETITION FOR JUDICIAL REVIEW AND INJUNCTIVE RELIEF** on the following individual, a copy of same in the United States Mail, Certified Mail, postage prepaid, addressed as follows:

**VIA U.S. MAIL AND E-MAIL *Marcus.Jimison@NCMEDBOARD.ORG***

Marcus Jimison  
Board Attorney  
North Carolina Medical Board  
Post Office Box 20007  
Raleigh, NC 27619-0007

This the 5 day of March, 2009.

  
\_\_\_\_\_  
Lisa G. Godfrey  
Counsel for Petitioner



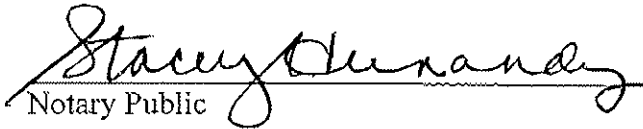
VERIFICATION

Rashid A. Buttar, being first duly sworn, deposes and says that he is the Petitioner in the above-entitled action; that he has read the foregoing **AMENDED PETITION FOR JUDICIAL REVIEW AND INJUNCTIVE RELIEF**; knows the contents thereof; that the same is true of his knowledge except for the matters therein stated upon information and belief; and as to those matters, he believes the same to be true.

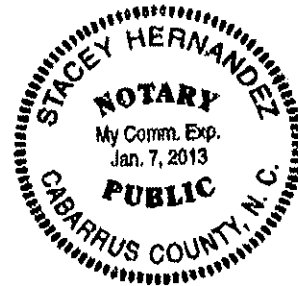


Rashid A. Buttar

Sworn to and subscribed before me  
this 5 day of March, 2009.

  
Notary Public

My Commission expires: Jan 7, 2013



BEFORE THE  
NORTH CAROLINA MEDICAL BOARD

In re:	)	
	)	
Rashid Ali Buttar, D.O.	)	AFFIDAVIT OF
	)	RASHID A. BUTTAR, D.O.
Respondent.	)	

RASHID ALI BUTTAR, being duly sworn, deposes and says:

1. In 18 years of practicing medicine, I have never been named in a malpractice law suite or had a patient complaint against me to the best of my knowledge. Yet, the NCMB began proceedings to prosecute this case based upon 4 complaints by 4 disgruntled parties, all of whom admittedly had never met me. Furthermore, all 4 parties have a clear financial motive for their complaints. Since the filing of the original case, the NCMB prosecutors dropped 1 of the original 4 complaints against me, after I was awarded a judgment by a civil court against the complainant.

2. Now, in 2009, after having had the evidence of 1000 pages of medical records for 3 years, the NCMB prosecutors have finally dropped the original false allegations against me of never having examined, visited, evaluated or seen the patients in question. These original false charges were noticeably and conspicuously inflammatory and a major alleged reason providing the excuse for prosecuting me in the first place, based on the NCMB's premise of insuring "patient safety."

a. The first hearing examined the only evidence consisting of over 1000 pages of medical records, disproved the NCMB's major allegations against me and showed these accusations to be blatant unfounded lies. The NCMB's legal counsel obtained these medical charts in 2006, examined them for 18 months, then knowingly filed false charges and made them public in an obvious attempt to discredit me and cause damage to my increasing reputation which is a source of continued source of embarrassment for the prosecutors of the NCMB and a threat to their abusive use of the power granted by the NCMB.

b. The NCMB prosecution, by dropping the charges regarding patient exams and visits, has attempted to eliminate the only evidence in this case consisting of medical charts clearly showing their main accusations as being false. Yet all over again, the NCMB and their prosecutors are trying to reincarnate the same dead issues as previously, violating the principals akin to "double jeopardy" that would have judicially barred them from raising these issues ever again had they not staged their malafide maneuver of an ex-parte.

c. Furthermore, the mistrial due to ex-parte contact is further concern as to the suspicious agenda of the NCMB prosecutors who were well aware of this departure from professional conduct, yet waited to disclose it to my defense team until a full 2 months after the facts were known to them.

d. Considering the 10-year history of the NCMB in persecuting me with NO complaints and NO cause, as well as my prominent role in helping to pass legislation to control the abusive power of the NCMB (Bill 886, Due Process for Physicians) passed in 2003, the motivation of the NCMB prosecutors has become more than highly suspicious and their actions have become more desperate as seen by the lack of substance in their case against me based on complaints by 3<sup>rd</sup> party non-patients I have never previously met.

3. The case against me now consists of the 3 “terminal” cancer patients referred to hospice who sought our help. All 3 patients in question are documented to have been appreciative and thankful of the treatment and care they received from us. None of these 3 patients EVER complained. In fact, they were extremely satisfied with services rendered. They made statements and gave gifts as thanks with verification by immediate family members present during treatment.

a. In all 3 of these cases, the patients had been referred to hospice with no other options given. Regardless of the fabricated assumptions and distorted illusions portrayed maliciously by the NCMB prosecutors, the objective evidence clearly proves the efficacy of the treatments we provided, further supported by documented subjective improvements including outliving the prognosis given by their conventional oncologists in all 3 cases.

b. Further more, in all 3 cases, the conventional oncologists who treated these patients prior to us, with treatments 2 to 11 times more expensive than our treatments, failed to give “informed consent” to these patients. None of the 3 patients in question were “informed” of nutrition, detoxification or immune modulation options which were the basis of treatments they received from us.

c. In all 3 cases, full witnessed consent for treatment was obtained in writing on multiple occasions, prior to each day of treatment. It is clearly documented in each case that the patients were always informed and that NO promise was ever made or implied regarding response to treatment. Each patient agreed and signed these consents in front of witnesses.

4. The fact is that the NCMB’s prosecution team took the statements of 3 disgruntled people, all with a financial and/or ego motive, and used these frivolous complaints to further their own personal agenda against me. Knowing full well that the parties complaining had absolutely NO PERSONAL KNOWLEDGE of the facts, and in fact have never even been inside our clinic, the NCMB prosecutors used these unfounded complaints to fabricate a case against me.

a. In 3 of the 4 original complaints, the complainants “threatened” our clinic that if we did not “write off” their bills, they were going to file a complaint to the NCMB, fully aware the bias the NCMB has for integrative physicians. My clinic responded by providing them with the phone number to the NCMB because we refused to be black mailed by 3<sup>rd</sup> parties. Furthermore, we had nothing to hide and have done NOTHING wrong!

b. Services were requested by the patients, agreed upon by the patients in question and were rendered after financial policies and consent agreements were signed and witnessed. Now the NCMB prosecutors wish to ignore the existence of these financial agreements as if the patients never agreed to them, never signed them or requested our care.

e. The NCMB prosecutors chose ONLY to listen to the side that served their purposes. The prosecutors listened to a complaint by a distant nephew, but NOT the daughter of the patient who had no complaints. In another case, they chose to listen to the complaint of a doctor who admittedly has no knowledge regarding our treatments, but NOT to the daughter of the patient who accompanied her mother during all treatments. In the last case, they listened to a wife who was opposed to the patient's choice of treatment rather than the documentation in the chart of the stress caused by this same wife or multiple witnesses who saw first hand the deteriorating dynamics between the patient and his wife.

f. In all cases, the patients eventually died, but outlived their prognosis by their oncologists. At the time of death, none of the patients were under our care. The complaints by the non-patient 3<sup>rd</sup> parties came months to years AFTER the patients died, only after outstanding balances owed were turned over to collection for non-payment.

5. The NCMB after the last hearing accused me of "providing false hope" to patients. On June 24<sup>th</sup>, 2008, the same month as the NCMB issued their formal recommendation to the full board regarding disciplinary action against me, Dr. Ron Davis, President of the AMA (American Medical Association), made the following public statement after being diagnosed with pancreatic cancer: "As a physician, I know the survival statistics for someone with stage 4 pancreatic cancer. But if the 2 year survival is 5%, that's not zero...so, never take away someone's hope".

a. Patients who we treated, who are still alive years after being referred to hospice and given poor prognosis, testified in front of the NCMB as to the efficacy of our treatments. The NCMB members on the panel refused to acknowledge these testimonies, with one NCMB member even dozing off during these testimonies.

b. The NCMB's definition of the "standard of care" which I am supposedly guilty of violating is vague and inadequate. It takes hope away from patients by telling them to go to hospice, when in fact, there are other options that are simpler, less expensive and lead to a better quality of life. In many cases they extend life and occasionally even more.

c. The mission and purpose of the NCMB is to insure patient safety. There was clearly NO patient harm, which was even admitted to by the ONLY expert witness used by the NCMB who incidentally had no knowledge of the treatment modalities we use routinely.

6. The "alleged" financial harm claimed by the NCMB prosecutors is even more ludicrous because our treatments are a fraction of the conventional costs. Compared to the high costs incurred during chemo and/or radiation, our treatments were anywhere from 1/2 to 1/11<sup>th</sup> the cost of the conventional treatments. Furthermore, the NCMB is now trying to dictate economic policy and freedom of choice. Are not such actions crossing over to anti-trust and racketeering?

7. The NCMB prosecution is trying to hide these and many other crucial facts under the false veil that the treatments these patients underwent lacked efficacy.

a. What proof does the NCMB show for the lack of efficacy of these treatments? Ignorance of the subject matter by the NCMB prosecutors or authors of text books used by the prosecutors to make their case, is NOT evidence of lack of efficacy. Using this idiotic logic, no advance in medical science would ever have been made.

b. The patients sought us out specifically for these treatments as do most people who travel to us from other countries. The fact that these treatments were provided based on the desire and wishes of the patients in question has been conspicuously absent.

c. Furthermore, if my treatments were NOT effective, how could I be enjoying the privilege of taking care of people from 34 different countries? How could my practice be thriving and increasing over the last 13 years? The lack of economic viability alone would have closed my practice long ago if there were any truth to the false allegations and fabrications created by the NCMB prosecutors and allowed to be propagated by the NCMB.

d. The blunt truth is I've exceeded the non-specific, vague, often contended and pathetically inadequate definition of the "standard of care" which has threatened the medical status quo and created difficulty for the NCMB prosecutors to continue their "witch hunts".

8. The NCMB's prosecution has led the NCMB astray by encouraging them to ignore the facts of these cases, that services were specifically sought by the patients in question and these treatments were more successful at accomplishing what the NCMB's "standard of care" was unable to accomplish. They are now attempting to "demonize" these treatments and myself by using dishonest, flawed and often irrelevant logic.

a. Thomas Mansfield, the chief prosecuting attorney for the NCMB was the lead opposition negotiating against me during the passage of Bill 886 titled "Due Process for Physicians". Mr. Mansfield and I were involved in multiple detailed conversations arguing opposing sides in witnessed exchanges. The NCMB prosecutors are now proceeding down an avenue knowing full well they are violating the spirit of this law passed in 2003.

b. After the passage of Bill 886, Thomas Mansfield had intimate knowledge on the AMESPA Medical Training program on which we had detailed conversations and that elicited at least one letter in reference to the teaching program. Since then I have taught this ACCME accredited course providing over 40 AMA Category 1 CME credits 8 different times between 2005 and 2007. Despite having the highest evaluation by attendees and being monitored by independent auditors, our accreditation was suddenly dropped without cause. Upon questioning, the CME director from Charlotte AHEC, Ms. Carpenter stated she was threatened she would lose her job if she continued to approve our course for CME.

c. These manipulations by the NCMB prosecutors to discredit our philosophies, treatments and reputation has been ongoing for at least 7 years. The AMESPA course was the first integrative medical training course in the US to meet the stringent ACCME criteria for CME approval. But the NCMB prosecutors through unknown channels of influence, managed to directly or indirectly manipulate the ACCME accreditation status of our course since it proved legitimacy of our treatments and made their agenda more difficult to obtain.

d. This, coupled with my international medical presence, political role in helping to insure patient and doctor rights by helping change the law in NC, testimony as an expert witness in some federal cases, US congressional testimony against the use of mercury in vaccines and amalgams, leadership role in serving as President of the NC Integrative Medical Society for 6 years as well as heading up 3 medical societies/boards, and being an outspoken critic against the NCMB for their restriction of patient rights and abusive conduct against good doctors, has only further incited and aggravated the NCMB prosecutors. My increasing popularity among patients and our effective treatments created problems for their agenda which is to discredit any form of medicine outside of the pharmaceutical model.

9. Under pretense of public safety, the NCMB prosecutors have used these 3 non-patient complaints to wage a war against me because I refused to conform and because they clearly consider me a liability to the NCMB, competition to the members of the NC Medical Society and a major source of increasing embarrassment and ongoing threat to the authority of the corrupt NCMB prosecution which has become more and more abusive and self-serving over the last 10 years.

a. I am a source of embarrassment to the NCMB prosecutors simply because they failed in their witnessed attempt at intimidating me to prevent me from successfully holding a press conference in the state capital as well as testifying in front of the NC Legislature in 2002. Even 5 minutes before my testimony, I was “warned” not to testify because it would “only make it difficult for you to practice medicine in NC.”

b. The NCMB prosecutors were again embarrassed when they tried to teach me a lesson for my role in helping pass Bill 886, titled “Due Process for Physicians”. After an attempt to go on a “fishing expedition”, we successfully filed a motion against the NCMB and accomplished the goal of documenting their “witch hunt” which the NCMB prosecutors waged against me in 2003 in retaliation for my testimony in front of the NC legislature.

c. The NCMB prosecutors, specifically Thomas Mansfield has used his position for a personal and professional agenda, to eliminate all integrative medicine in NC and to use my case as an example of what happens to outspoken “integrative” doctors to keep others from speaking out. Mr. Mansfield has used his office and power to further his personal agenda and bias against integrative medicine. Mansfield’s disdain for integrative medicine is public knowledge and no less significant than a prosecutor going after a man as a result of a bias against his skin color or his religious belief.

d. This same bias has resulted in 17% of integrative doctors in NC being investigated by Mansfield. Despite no adverse effect or malpractice case (to my best knowledge) against the doctors in question, these baseless charges which are usually of a financial nature are orchestrated by Mansfield or his crew, but are signed by the current unsuspecting Presidents of the NCMB. When compared to less than 1% of conventional doctors being investigated by Mansfield, the agenda becomes clear. Furthermore, the NC physicians found guilty of medical negligence with multiple malpractice payouts exceeding half a million dollars or more but without a single action taken by the NCMB prosecution further illuminates the corrupt and biased agenda of the NCMB prosecutors.

10. The "competition" the NCMB prosecutors seek to eliminate by going after myself and my colleagues is in the area of medicine that inherently is NOT dependent on a pharmaceutical model of "symptom suppression", is actively sought out by informed and educated patients, is growing exponentially throughout the country, provides better outcomes for patients, has far lesser side effects and offers a better quality of life than the traditional, obsolete medical model revolving around a defunct "standard of care". The evidence of these facts surrounds us on a daily basis.

a. The NCMB has given a clear message by ignoring the testimony of multiple patients successfully treated by us, AFTER failing the conventional "standard of care" treatments. Some of them were told they were "terminal" and had no choice. If they had accepted the "death sentence" imposed by the inadequate "standard of care," they wouldn't be alive and well or have been able to testify before the NCMB, validating the efficacy of our treatments.

b. The NCMB prosecutors have shown abhorrent disdain for anything besides their own beliefs by ignoring the objective data, subjective findings and medical documentation. Failure of the NCMB to recognize the result in these and hundreds of similar patients in our practice clearly proves the agenda of the NCMB is anything BUT patient safety or concern.

c. If patient safety were the primary concern of the NCMB, they would be embracing my colleagues and I and "begging" us to teach the rest of the medical providers in NC to help more patients achieve a better outcome. Instead, they hold on to the obsolete and undefined "standard of care" which has now reduced the US to 37<sup>th</sup> in the world in quality of health care and caused over a million people to leave the US annually seeking the same care we provide. For those physicians who don't conform to the inferior "standard of care", we are subjugated to malicious prosecution, severe penalties and defamation of our characters.

11. The NCMB has failed in it's primary function of insuring the best interest of the patient by becoming a vehicle for zealous and unethical prosecutors whose only agenda is to gain a higher NADER rating, regardless of the cost in lives or the victimization of innocent parties, be they patients who suffer due to lack of treatment or the doctor who is robbed of their ability to practice.

a. Dr. Benjamin Rush, one of the original signors of the Declaration of Independence and a noted physician during the revolution wrote: "Unless we put medical freedom into the Constitution, the time will come when medicine will organize an undercover dictatorship. To restrict the art of healing to one class of men, and deny equal privilege to others, will be to constitute the Bastille of medical science. All such laws are un-American and despotic, and have no place in a Republic. The Constitution of this Republic should make special privilege for medical freedom as well as religious freedom."

b. Thomas Jefferson wrote: "If people let government decide what foods they eat and what medicines they take, their bodies will soon be in as sorry a state as the souls of those who live under tyranny." Maurice Maeterlinck wrote: "Each progressive spirit is opposed by a thousand mediocre minds appointed to guard the past."

c. The NCMB has allowed the zealous prosecutors to discriminatorily pursue doctors who adhere to the principals our forefathers warned us to observe more than 200 years ago. As a result, the NCMB has caused severe grievances to not only the citizens of NC but to the doctors who serve these citizens whose only "crime" was to do their best in trying to help their patients when other doctors could not or refused to help.

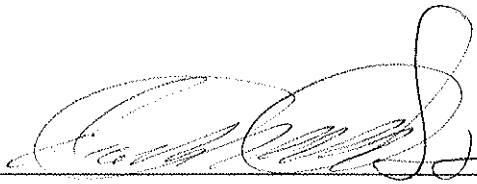
d. More often than not, my colleagues and I have succeeded in helping those who sought our help when the "standard of care" has failed. Is this the reward for going beyond the call of duty? Is malicious prosecution and defamation of character the price a physician has to pay for providing excellent medical attention, uncompromising care consistently exceeding the "standard" and often saving those who were written off as being "beyond help" or "unsalvageable"?

e. If the price of providing better care than the "standard" in NC is the loss of medical licensure, it's a sad day in NC. But the hidden agenda of the NCMB and it's biased prosecution team that has a nationally directed agenda dictated by the Federation of State Medical Boards to "eliminate all alternative therapies" must first be exposed.

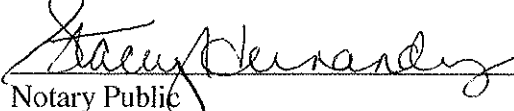
f. Eliminating legitimate forms of natural healing that are safer, allow for a better outcome and are less expensive is a crime against humanity. Discrediting those doctors who are outspoken on the subject matter is no less of a crime. If these same prosecutors or members of the NCMB were ever in the shoes of a patient and had failed all treatment options, they too would be searching for all their options and seeking our care.

g. The agenda of the NCMB prosecutors to manipulate the direction of patient dollars away from the patient's best interest towards the pharmaceutical cartel is indicative of the sad state our health care has finally reached. However, I CAN NOT compromise my oath to my profession, my vow to my patients or the promise I have made to my God.

This the 19 day of May, 2009.

  
DR. RASHID A. BUTTAR

SWORN to and subscribed before me  
this 19 day of May,  
2009,

  
Notary Public

My Commission Expires: Jan 7, 2013

