

STATE OF NORTH CAROLINA

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
09-BME-5109

COUNTY OF WAKE

N. C. MEDICAL BOARD,)
Petitioner,)
vs.)
RASHID ALI BUTTAR, D.O.,)
Respondent.)

**RESPONSE TO NOTICES OF
CHARGES AND ALLEGATIONS**

NOW COMES Respondent Rashid Ali Buttar, D.O., and responds to the charges and allegations served on him on the 9th day of September, 2009, and respectfully shows the Court that the Petitioner issued two (2) documents entitled "Notice of Charges and Allegations" against the Respondent. The first document contained charges and allegations regarding Patients A through D, who all presented to the Respondent with a diagnosis of cancer. The second Notice of Charges and Allegations pertained to four (4) different patients. The first three (3) of these patients were members of the same family who were exposed to mercury, and the fourth patient was an autistic child. Because the patients in the second Notice of Charges were denominated with the same letters as the cancer patients, the parties have entered into a Stipulation pertaining to the letter designation of the patients so that each patient named in these Notices of Charges is denominated with a different letter of the alphabet. For the purposes of this Response to Notices of Charges, Respondent will refer to the patients with the letter designations set forth in the chart below for discovery and the trial in this case:

PATIENT LETTER DESIGNATED IN NOTICES OF CHARGES	DESCRIPTION OF PATIENT/ILLNESS	PATIENT LETTER DESIGNATION FOR DISCOVERY AND TRIAL OF CASE
A	Cervical Cancer	A
B	Ovarian Cancer	B
C	Adrenal Cancer	C
D	Colon Cancer	D
D	Minor Child With Autism	E
A	Father Exposed to Mercury	F
B	Mother Exposed to Mercury	G
C	Daughter Exposed to Mercury	H

Respondent hereby responds to the Notice of Charges and Allegations in this case for the cancer Patients A through D as follows:

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. Patient A was referred to hospice and "considered" terminal stage 4 cancer at the time she sought treatment with the Respondent.

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. Patient B was considered terminal stage 4 cancer in April 2004 and was directed to the Respondent by her family doctor after patient B requested other options besides hospice.

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 and was stage 4 when presenting to the Respondent.

8. Concerning the allegations of paragraph 8, it is admitted that Patient D presented to the Respondent with a diagnosis of colon cancer with intra-abdominal metastases. Patient D had been referred to hospice at the time he consulted with the Respondent and as with Patients A, B and C, did not wish to simply give up. Patient D was considered terminal stage 4 cancer upon presenting to the Respondent.

9. Concerning the allegations of paragraph 9, the Respondent states that, at the time of Patients A, B, C and D'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, B and D succumbed to their cancer, and that Patient C died of a pulmonary embolism.

10. Denied. With regard to Patient A, the Respondent's records do not reflect how she was referred to him for treatment. However, the Petitioner'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.

With regard to Patient D, Respondent's records do not reflect how said patient was referred to Respondent's practice, but Patient D had stated he had known several of the Respondent's previous patients. Patient D signed a consent to treatment which specifically stated that no claim to cure cancer had been made to Patient D.

Furthermore, the Petitioner had already made false accusations against the Respondent and these allegations were public knowledge. Patient D came to the Respondent **after** these false allegations by the Petitioner had been made. The Respondent ensured Patient D was aware of the false allegations against him. Patient D advised the Respondent he knew the truth and it only furthered his desire to have the Respondent attempt to help him.

11. Denied. The Respondent will present scientific evidence before the Petitioner of the efficacy of all treatments rendered in his practice to Patients A, B, C and D. 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."**

Furthermore, the allegations that these therapies are "wholly ineffective" are blatantly false. These supposedly "wholly ineffective" therapies have been repetitively successful in effectively treating these and other conditions in the Respondent's practice **after** the conventional medical approach by other doctors had failed and the patients had been referred to hospice. Testimony from patients with Stage 4 terminal cancer failing chemo and radiation, given six months to a year to live, undergoing these reportedly "wholly ineffective" treatments, and still alive over five years later will clearly prove the false nature of these allegations.

12. Concerning the allegations of paragraph 12, 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 12, 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 the above-mentioned patients has been taught in an ACCME accredited, AMA Category 1 CME approved course. In addition, all labs and testing were reviewed with the patients and are documented with findings recorded in the patient records.

13. The allegations of all of the sentences of paragraph 13 are specifically denied. All testing and lab work were, in the opinion of the Respondent, necessary for the treatment of his patients. In addition, all labs and testing were reviewed with the patients and are documented with findings recorded in the patient records, clearly showing how treatment was adjusted on a weekly basis.

14. The allegations of all sentences of paragraph 14 are specifically denied. Patients A, B, C and D all clinically showed efficacy of treatment and objective evidence of improvement.

15. Concerning the allegations of paragraph 15, the billing statements for Patient A have been submitted to the Petitioner 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. Except as specifically admitted, the remainder of the allegations of paragraph 15 are denied.

16. Concerning the allegations of paragraph 16, the billing statements for Patient B have been submitted to the Petitioner and they speak for themselves. The treatments and therapies provided by the Respondent were effective and Patient B showed improvement. Patient B was discharged from Respondent's practice for non-compliance. Except as specifically admitted, the remainder of the allegations of paragraph 16 are denied.

17. Concerning the allegations of paragraph 17, the billing statements for Patient B (which have been submitted to the Petitioner) speak for themselves. It is admitted that the Respondent's practice did seek collection from Patient B's estate for an outstanding balance at the time of her death. Except as specifically admitted, the remainder of the allegations of paragraph 17 are denied.

18. Concerning the allegations of paragraph 18, it is specifically denied that the Respondent's treatments were ineffective. With regard to the amounts of the charges for Patient C, the Respondent's billing records have been submitted to the Petitioner 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. Patient C never objected to the billings for

his treatment with the Respondent. Rather, all objections came from Patient C's spouse, who stood to benefit from Patient C's estate. 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. It is denied that Respondent ever sought payment for Patient C's charges for Patient A's widow. Except as specifically admitted, the remainder of the allegations of paragraph 18 are denied.

Furthermore, Patient C's widow threatened Respondent's office staff that, if the outstanding balance was **not** cancelled or "otherwise written off", she would file a complaint with the Petitioner. Patient C's widow also threatened she would conspire with another family member of another patient unless her husband's outstanding medical bills were not "written off".

19. Concerning the allegations of paragraph 19, it is admitted that Patient D was diagnosed with colon cancer with intra-abdominal metastases in July 2007. After surgical intervention, Patient D was also diagnosed with a signet ring cell carcinoma of the appendix with infiltration through the appendiceal wall to the serosa. A review of Patient D's medical records shows that, in July 2007, the patient's treating physicians discussed surgical options, chemotherapy options and non-operative management of his cancer. Patient D elected to undergo surgical management. The last portion of paragraph 19 is also categorically denied. Patient was chachetic and extremely weak, complaining that "they want to do chemo on me when I can barely get up." Patient D had been getting weaker by the day and confided to the Respondent (in front of staff and family) that he knew the chemo was not an option for him because he was already too weak to tolerate it, and it would "kill me."

20. Concerning the allegations of paragraph 20, it is admitted that Patient D sought treatment with the Respondent on October 15, 2007. It is further admitted that the Respondent met with Patient D and various members of his family to discuss treatment. It is further admitted that Patient D signed a consent for treatment with the Respondent which states that "specifically, no claim to cure cancer or any disease process with these therapies has been made to me." The allegations of the third sentence of paragraph 20 are specifically denied. Except as specifically admitted, the remainder of the allegations of paragraph 29 are denied.

Furthermore, these false accusations were made by Patient D's brother, who was told by Patient D to "shut up" during the initial office visit due to his rudeness and obvious hostility. Patient D asked his brother to leave if he could not support Patient D in his decision. In addition, Patient D's brother blamed Respondent for "creating a divide between my brother and I" and threatened to file a complaint against Respondent on internet blog sites. Patient D's brother said he was the primary care giver to his brother when, in fact, Patient D's primary care givers were his sisters. Patient D's brother never returned to the clinic and was often the subject of aggravation for Patient D, as shared with the Respondent and staff members.

21. Concerning the allegations of paragraph 21, it is admitted that Patient D was treated by the Respondent and that the medical records of said patient accurately reflect the nature and

types of treatment prescribed by the Respondent. Except as specifically admitted, the remainder of the allegations of paragraph 21 are denied.

22. Concerning the allegations of paragraph 22, it is admitted that the Respondent's billing statements for Patient D speak for themselves. Except as specifically admitted, the remainder of the allegations of paragraph 22 are denied.

23. Concerning the allegations of paragraph 23, Respondent is informed and believes that Patient D succumbed to his cancer. Patient D and Respondent continued to communicate after treatments had stopped and Patient D was very grateful to the Respondent for his care, as were Patients A, B and C. Except as specifically admitted, the remainder of the allegations of paragraph 23 are denied.

24. The first sentence of paragraph 24 is admitted. Concerning the remainder of the allegations of paragraph 24, those allegations are denied.

25. The allegations of paragraph 25 are specifically denied. Under N.C.G.S. § 90-1A(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 Petitioner'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 not effective. In fact, the Respondent's treatment was documented in some individual patient files as being far 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 and will show expert testimony to support the same. Furthermore, the Petitioner or its "experts" appears to have no knowledge or understanding of any of the principles or premises or philosophy of treatment used by the Respondent and other physicians, using a less toxic, less obtrusive and far more successful approach to addressing chronic disease.

26. The allegations of paragraph 26 are denied. The Petitioner has presented no allegations or proof that the Respondent's treatments are a safety risk greater than the prevailing treatment nor any proof that they are generally not effective.

27. The allegations of paragraph 27 are denied. The Respondent did not directly solicit any of the patients cited in the Petitioner's charges. In fact, patients are routinely referred by other patients or their physicians to the Respondent based on Respondent's reputation and track record of highly effective and innovative treatments. 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 any condition, especially on cancer. These statements are always witnessed. In addition, all patients sign consent for treatment every time they receive a treatment at Respondent's clinic. All patients also sign clear financial policies which state that patients are directly responsible for all charges.

Respondent hereby responds to the second Notice of Charges and Allegations concerning Patients E through H as follows:

1. Concerning the allegations of paragraph 1, this allegation is an allegation of law and not of fact and is, therefore, denied.

2-3. Admitted.

4. Concerning the allegations of paragraph 4, it is admitted that Patients F through H are family members and that they all reported a history of being exposed to mercury vapors in October 2001.

5. Concerning the allegations of paragraph 5, it is admitted that Patients F through H presented to the Respondent in February 2005, and their symptoms are accurately reflected in their medical records with the Respondent. Patients F through H were referred to Respondent by the Chairman of the Department of Biochemistry at the University of Kentucky, Dr. Boyd Haley. The Respondent performed various laboratory testing, as well as a physical examination of each Patient, and diagnosed various levels of toxic metals in each of the three Patients who were treated using chelation therapy. Except as specifically admitted, the remainder of the allegations of paragraph 5 are denied.

6. The allegations of the first three sentences of paragraph 6 are denied. Concerning the fourth sentence, it is true that mercury poisoning to the central nervous system may produce symptoms of tremor, neuropsychotic disturbances such as disoriented mood, fatigue, insomnia and memory loss, as well as other significant physical symptoms. However, mercury poisoning can exist without any or all of these symptoms. Concerning the fifth sentence of paragraph 6, it is admitted that Patients F through H did have symptoms consistent with mercury poisoning. Respondent is the current Chairman of the American Board of Clinical Metal Toxicology and is very experienced with the diagnosis and treatment of mercury toxicity. Respondent has been nominated for his clinical work with metal toxicity for the National Institute of Health's Director's Pioneer Award, has testified in front of the US Congressional Sub Committee on Human Rights and Wellness regarding heavy metal exposure, has served on the special 12 member National Metal's Task Force Panel during the Bush administration, has served as expert witness in cases involving heavy metals, has been consulted by international governments on issues regarding heavy metal exposure, has served as advanced faculty for no less than 12 courses on Heavy Metal Toxicity, has given no less than 70 professional lectures on the topic of heavy metal toxicity, and is one of less than 10 doctors in the USA to have achieved "Master" status through the American Board of Clinical Metal Toxicology. Except as specifically admitted, the remainder of the allegations of paragraph 6 are denied.

7. Denied concerning the allegations of paragraph 7 with regard to Patients F, G and H.

8. Concerning the allegations of paragraph 8, it is admitted that Patient E was a minor child with autism who resided with her parents in Michigan.

9. Concerning the allegations of paragraph 9, it is admitted that Patient E's parents sought treatment from the Respondent for Patient E. Except as specifically admitted, the remainder of the allegations of paragraph 9 are denied.

10. Concerning the allegations of paragraph 10, it is impossible to admit or deny those allegations because an exact date is not specified on which the Respondent's nurse practitioner is alleged to have spoken to Patient E's mother. It is admitted that Respondent's nurse practitioner did speak on the phone and e-mail Patient E's mother on various occasions.

11. Concerning the allegations of paragraph 11, it is admitted that Respondent referred Patient E's parents to laboratories for the collection of laboratory samples for testing. It is further admitted that the results of those lab tests were sent to the Respondent's office. Except as specifically admitted, the remainder of the allegations of paragraph 11 are denied.

12. Concerning the allegations of paragraph 12, it is usual and customary for all pediatric patients in Respondent's practice to be referred back to their primary pediatricians for examination and, occasionally, for laboratory analysis. Patient E was appropriately evaluated prior to initiation of treatment. Furthermore, Respondent is not a pediatrician and Patient E was routinely evaluated by a pediatrician. Except as specifically admitted, the remainder of the allegations of paragraph 12 are denied.

13. Admitted.

14. Concerning the allegations of paragraph 14, it is admitted that, in May 2007, Patient E and her parents came to North Carolina for an appointment with the Respondent's nurse practitioner who evaluated Patient E under the supervision of the Respondent. Except as specifically admitted, the remainder of the allegations of paragraph 14 are denied.

15. Concerning the allegations of paragraph 15, it is admitted that, in July 2007, Patient E's parents informed the Respondent that they had decided to discontinue treatment with the Respondent and start treatment with Dr. Demio of Cleveland, Ohio, another alternative medicine physician who treats children with autism. At that time, Patient E's parents stated:

Your staff have been very helpful and pleasant and we are grateful. We are friends with a family who are doing your protocol successfully. It simply was not working for (Patient E) and it was most assuredly not because we failed to discipline her appropriately but because her system was not tolerating the protocol. We are sorry it did not work for us but we are grateful for all doctors and practices like yours seeking to help our children live better, healthier lives. Good luck and God Bless!

Except as specifically admitted, the remainder of the allegations of paragraph 15 are denied.

16. The allegations of paragraph 16 are allegations of law and not of fact and, therefore, are denied.

17. Denied.

18. Concerning the allegations of paragraph 18, the consent forms used by the Respondent are intended to fully and completely inform patients as to the treatments, financial policies and the expectations of the practices insofar as patient compliance. Furthermore, there has **never** been such a charge made to any patient. Except as specifically admitted, the remainder of the allegations of paragraph 18 are denied

19. Denied.

20. The allegations of paragraph 20 are specifically denied as to Patients E through H. Under N.C.G.S. § 90-1A(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 Petitioner'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.

21. The allegations of paragraph 21 are denied as to Patients E through H. The Petitioner has presented no allegations or proof that the Respondent's treatments are a safety risk greater than the prevailing treatment, nor any proof that they are generally not effective.

22. The allegations of paragraph 22 are denied with regard to Patients E through H. The Respondent did not directly solicit any of the patients cited in the Petitioner'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.

23. Concerning the allegations of paragraph 23, it is specifically denied that the Respondent's treatment of Patient E was in violation of laws involving the practice of medicine, and the remainder of the allegations of paragraph 23 are denied.

WHEREFORE, Respondent respectfully prays that the charges be dismissed, and for such other and further relief as to the Court seems just and proper.

Respectfully submitted, this the _____ day of January, 2010.

H. Edward Knox

Lisa G. Godfrey

FOR THE FIRM:

Knox, Brotherton, Knox & Godfrey
Post Office Box 30848
Charlotte, NC 28230-0848
Phone: (704) 372-1360
Fax: (704) 372-7402
eknox@knoxlawcenter.com
lgodfrey@knoxlawcenter.com

James B. Maxwell
Attorneys for Respondent

FOR THE FIRM:

Maxwell, Freeman & Bowman, P.A.
Post Office Box 52396
Durham, NC 27717-2396
Phone: (919) 493-6464
Fax: (919) 493-1218
jmaxwell@mfba.com

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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 **RESPONSE TO NOTICES 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 _____ day of January, 2010.

Lisa G. Godfrey
Attorney for Respondent

VERIFICATION

Rashid Ali Buttar, being first duly sworn, deposes and says that he is the Respondent in the above-entitled action; that he has read the foregoing **RESPONSE TO NOTICES OF CHARGES AND ALLEGATIONS**; 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 Ali Buttar

Sworn to and subscribed before me
this _____ day of _____, 2010.

Notary Public

My Commission expires: _____