

My Texas Medical Board Experience

I am Dr. LeeRoy McCurley a residency trained family practitioner nearly 30 years post residency. I have taken and passed my Family Practice Boards twice. I know and understand my specialty. I was brought up on charges by the IRS diversion unit for allegedly running a pill mill in May 2102. According to the statements by the IRS officers this was done with the TMB's blessing. Actually, the TMB sent me notice by mail that I was under investigation by the board the Saturday before the raid that took place on Tuesday May 1, 2012. I called the number that was on the notice that Monday to ask what the problem was. I got the run around and was placed on hold for about 10 minutes. Then the line went dead. I had planned to call again but time got away from me as I had a busy practice. The next morning before I had a chance to call again the IRS and DEA showed up at my primary office to tell me that the other office had been raided and that I needed to surrender my DEA license to show that I was cooperating with them. I foolishly did without the advice of counsel.

Next I hear from Sharon Pease that I needed to send medical records to the board. There were 18 records requested. The IRS had taken all charts but I was instructed to call the IRS officer as he would know whom I would need. I would later find out why he would know as the IRS and the TMB had already conspired together that I was running a pill mill. There was never any proof of that presented to anyone. At what was called the Informal Settlement Conference (ISC), I was informed of what my sanctions would be without being able to put up a defense for running this pill mill. I basically had no constitutional rights as a citizen of this country and I either had to accept what the lawyers for the Board presented to me as punishment or refuse it. I of course refused it as I was not running a pill mill and there had never been any proof presented to the contrary of that fact. Even at my SOAH hearing the two ALJ's ruled that I had not done any non-therapeutic prescribing nor had I committed any crimes. This was apparently totally ignored by the TMB. I then had a mediation that was basically rejected by the Board even though their representatives were there and basically told me what the Board would and would not accept. So we went to SOAH and it was there that all of this pill mill allegations changed into I was running a pain clinic but not adhering to the rules. I did have a pain registration because I thought I was actually protecting myself with that as it was not my primary office. We treated other things there too but the Board chose 14 charts out of a possible 3-4 thousand charts to focus on to prove that I was running a pain clinic. The SOAH judges agreed that I did not adhere to rules of running a pain clinic but they also said that I had presented ample evidence that I was running an ambulatory clinic. That would have been consistent with my training as a family doctor. This was also ignored by the Board. Why do SOAH if the Board does not have to be bound by what is found there as fact? The order was written by the attorney that had failed to show all these things to be fact. Under the Texas Occ. Code 164.001 (e) & (f) any sanction imposed on a physician as a result of a SOAH hearing must follow the schedule of sanctions adopted by the Board. Under the Board's disciplinary schedule 22 TAC 190.14(9), the board can prohibit the supervision of mid-levels and prescribing of narcotics if the ALJ finds certain violations, none of which were found in this case. The IRS had given back my DEA without restrictions after a 3+ year investigation that found no wrongdoing as far as I could tell. I had 3 years of monitoring included. The Board restricted my DEA license to no schedule 2 medications. That does not follow their own schedule of sanctions. Truly a Board that makes sure its doctors follow ALL the rules would do so itself. This points directly to the corruption in this medical board. They did not follow their own rules in my case. Please reference TAC 190.14(9) 164.053(a)(3)-(6) and see that none of these

violations for which the Board could restrict my DEA license were found at SOAH but the Board still restricted my DEA license. It has cost me tremendously as I have lost my biggest insurer and I have not been able to get on other of the newer AHCA insurances due to this illegal restriction. I also lost my malpractice insurer of the last 12 years. I have to wait five years to ask the Board to drop this unfounded restriction. Something must be done to stop this runaway train that is the TMB. The Board's purpose is to protect the public and to be sure that good medical care is being provided by the doctors of the state of Texas. In my case and others, the public is not being protected but rather being put at a hardship as they scramble to find good medical care. Not one of my patients complained about any of this that was brought before the Board. These were allegations brought on by the IRS which themselves NEVER produced any evidence that any of there allegations were true. It left the TMB to protect them from being sued for defamation of character and libel. Is that the real function of the TMB?