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HEARING CONDUCTED BY THE
TEXAS STATE OFFICE OF ADMINISTRATIVE HEARINGS
SOAH DOCKET NO. 503-16- 5695 .MRT
TEXAS MEDICAL RADIOLOGIC TECHNOLOGISTS LICENSE NO. 28567

IN THE MATTER OF THE

COMPLAINT AGAINST

LAWRENCE PETER FENTI, MRT

BEFORE THE

TEXAS BOARD OF MEDICAL
RADIOLOGIC TECHNOLOGY

COMPLAINT

TO THE HONORABLE TEXAS BOARD OF MEDICAL RADIOLOGIC TECHNOLOGY
AND THE HONORABLE ADMINISTRATIVE LAW JUDGE TO BE ASSIGNED:

COMES NOW, the staff of the Texas Board of Medical Radiologic Technology (Board) and files this Complaint against Lawrence Peter Fenti, MRT, (Respondent), for alleged violations of the Medical Radiologic Technologist Certification Act (Act), Title 3, Subtitle K, TEX. OCC. CODE ANN. Chapter 601 (Vernon Supp. 2016) and the rules adopted thereunder,¹ and would show the following:

I. SUMMARY OF FACTUAL ALLEGATIONS

At issue in this case is Respondent's arrest, conviction and subsequent incarceration for felony offenses related to his practice as a medical radiologic technician, which resulted in the revocation of his American Registry of Radiology Technologists (ARRT) certificate and registration.

II. LEGAL AUTHORITY AND JURISDICTION

1. Respondent is a medical radiologic technologist and holds Texas Medical Radiologic Technologist License No. 28567, which was originally issued by the Texas

¹ S.B. 202, Acts of the 84th Legislature, R.S. (2015) transferred several health care practitioner licensing and enforcement programs from the Department of State Health Services (DSHS) to the Texas Medical Board including the program regulating the practice of medical radiologic technology (MRT). S.B. 202 explicitly provides that any DSHS rule in effect on September 1, 2015 remains in effect until changed by the Board. The Board has not yet promulgated rules relating to the MRT program.

Department of State Health Services (DSHS) on or around September 19, 2005. Respondent's license was in full force and effect at all times material and relevant to this Complaint.

2. Respondent received notice of one or more Informal Settlement Conferences (ISC). The Board complied with all procedural rules, including but not limited to, 25 Tex. Admin. Code Chapter 140, as applicable.

3. No agreement to settle this matter has been reached by the parties.

4. All jurisdictional requirements have been satisfied.

5. The filing of this Complaint and the relief requested are necessary to protect the health and welfare of the citizens of the State of Texas.

III. APPLICABLE STATUTES AND STATUTORY VIOLATIONS

The following statutes, rules, and agency policy are applicable to the procedures for conduct of the hearing this matter:

A. General Statutes and Rules:

1. Section 601.304 of the Act requires the Board to adopt procedures governing formal disposition of a contested case before the State Office of Administrative Hearings (SOAH).

2. 25 TEX. ADMIN. CODE CHAPTER 140 sets forth the procedures promulgated under the statutory authority of §601.304 of the Act.

3. 1 TEX. ADMIN. CODE CHAPTER 155 sets forth the rules of procedure adopted by SOAH for contested case proceeding.

4. 1 TEX. ADMIN. CODE §155.507 requires the issuance of a Proposal for Decision (PFD) containing Findings of Fact and Conclusions of Law.

5. Section 601.302 of the Act and the rules set forth at 25 Tex. Admin. Code §140.514 provide the Board with the legal authority to determine the charges on the merits, to impose sanctions for violation of the Act or a related rule, and to issue a Final Order.

B. Specific Violations Cited:

Respondent has violated one or more of the following provisions of the Act:

1. Section 601.302(5) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's unprofessional conduct, as further defined by the following rules: 140.514(c)(2), engaging in conduct prohibited by federal, state or local laws, 140.514(c)(5), any practice or omission that fails to conform to accepted principles and standards of the medical radiologic technologist profession; and 140.514(c)(30), intentionally or knowingly offering to pay or agreeing to accept any remuneration, either directly or indirectly, overtly or covertly, in cash or in kind, to or from any person, firm, association of persons, partnership, or corporation for securing or soliciting patients or patronage to or from a person licensed, certified or registered by a state health care regulatory agency.

2. Section 601.302(9) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's violation of a rule adopted under the Act, specifically 25 Tex. Admin. Code 140.514(b)(5), engaging in unprofessional conduct, 140.514(b)(10), having a certificate revoked, suspended, or otherwise subject to adverse regulatory action; and 140.514(b)(11), being convicted of or pleading nolo contendere to a felony offense.

3. Section 601.302(10) of the Act authorizes the Board to take disciplinary action against Respondent based on the American Registry of Radiology Technologists' (ARRT) revocation of Respondent's certificate and registration.

4. Section 601.302(11) of the Act authorizes the Board to take disciplinary action against Respondent based on his conviction of a felony offense directly related to the radiologic technologist practice.

5. Section 601.310 of the Act authorizes the Board to take disciplinary action against Respondent because regardless of the offense, the Board is required to suspend the certificate or license while Respondent is incarcerated in a federal penitentiary.

6. Section 53.021(a)(1), TEX. OCC. CODE ANN. (Vernon Supp. 2016), authorizes the Board to suspend or revoke a license on the grounds that the person has been convicted of an offense that directly relates to the duties and responsibilities of the licensed occupation.

IV. FACTUAL ALLEGATIONS

Based on information and belief, Board staff alleges:

1. On or around October 26, 2002, Respondent filed an application for a general certificate with the Texas Department of Health's MRT program. MRT License No. 28567 was issued on or around September 19, 2005.
2. On or around July 17, 2013, an indictment was issued in Criminal Cause No. SA-13-CR-588 [U.S. District Court – Western District (San Antonio Division)] charging that Respondent, in his capacity as a non-commissioned officer in the U.S. Army, formed a partnership with other individuals in order to profit personally from Army contracts for radiology services and equipment. Specifically, Respondent was charged as a public official with felony conspiracy and with seeking as well as agreeing to receive and accept a share of the money derived from certain of these Army contracts in order to steer the contracts to his partners.
3. On or around November 15, 2013, Respondent pleaded guilty and entered into a plea agreement before the U.S. District Court – Western District (San Antonio Division) to one felony count of conspiracy and one felony count of seeking, agreeing to receive and accept, and receiving and accepting a bribe as a public official.
4. On or around September 26, 2014, Respondent was sentenced to 48 months in federal prison and he is currently incarcerated at the federal maximum security penitentiary located in Beaumont, Texas. His release date is scheduled for December 7, 2018.
5. By letter dated November 30, 2015, the ARRT notified the Board that Respondent's certification and registration had been revoked due to these felony offenses.
6. The Board attempted to notify Respondent by letter dated December 29, 2015 that an investigation had been initiated based on the ARRT's revocation of Respondent's certification and registration. A second notice regarding this formal investigation was mailed to Respondent on February 3, 2016. Notice of the scheduling of an Informal Settlement Conference was mailed via overnight delivery on March 23, 2016. No response has been received to any of these notices from Respondent and Respondent failed to attend the Informal Settlement Conference held on May 24, 2016.
7. Engaging in unprofessional conduct including violations of the standards of practice established by the Board constitutes a violation of the Act and the rules promulgated thereunder; specifically:

Section 601.302(5) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's unprofessional conduct, specifically 25 Tex. Admin. Code 140.514(c)(2), engaging in conduct prohibited by federal, state or local law; 140.514(c)(5), engaging in any practice or omission that fails to conform to accepted principles and standards of the medical radiologic technology profession; and 140.514(c)(30), intentionally or knowingly offering to pay or agreeing to accept any remuneration, directly or indirectly, overtly or covertly, in cash or in kind, to or from any person, firm, association of persons, partnership or corporation for securing or soliciting patients or patronage to or from a person licensed, certified or registered by a state health care regulatory agency.

8. Violating a provision of the Act or rules adopted under the Act constitutes a violation of the Act; specifically:

Section 601.302(9) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's violation of the Act or the rules adopted thereunder; specifically, 25 Tex. Admin. Code 140.514(b)(5), engaging in unprofessional conduct; 140.514(b)(10), having a certificate revoked, suspended or otherwise subject to adverse regulatory action; and 140.514(b)(11), being convicted of or pleading nolo contendere to a felony offense.

9. Having a certificate revoked, suspended or otherwise subject to adverse regulatory action is a violation of section 601.302(10) of the Act.
10. Being convicted of or pleading nolo contendere to a crime directly related to the practice of a radiologic technologist is a violation of section 601.302(11) of the Act.
11. Section 601.310 of the Act requires the Board to suspend the certificate or approval of a person serving prison time in a state or federal penitentiary during the term of incarceration.

V. AGGRAVATING AND MITIGATING FACTORS

The rules set forth at 25 Tex. Admin. Code §140.514(h) provide that the Board may consider aggravating factors that warrant more severe or restrictive disciplinary action. This case includes the following aggravating factors: 1) the severity of the offense.

Board staff is aware of no mitigating factors that apply and demands that Respondent submit proof to substantiate any alleged mitigating factors.

VI. NOTICE TO RESPONDENT

IF YOU DO NOT FILE A WRITTEN ANSWER TO THIS COMPLAINT WITH THE STATE OFFICE OF ADMINISTRATIVE HEARINGS WITHIN 20 DAYS AFTER THE DATE OF RECEIPT, A DEFAULT ORDER MAY BE ENTERED AGAINST YOU, WHICH MAY INCLUDE THE DENIAL OF LICENSURE OR ANY OR ALL OF THE REQUESTED SANCTIONS, INCLUDING THE REVOCATION OF YOUR LICENSE. A COPY OF ANY ANSWER YOU FILE WITH THE STATE OFFICE OF ADMINISTRATIVE HEARINGS SHALL ALSO BE PROVIDED TO THE HEARINGS COORDINATOR OF THE TEXAS BOARD OF MEDICAL RADIOLOGIC TECHNOLOGY.

VII. PRAYER

WHEREFORE, PREMISES CONSIDERED, Board staff requests that an administrative law judge employed by the State Office of Administrative Hearings conduct a contested case hearing on the merits of the Complaint, and issue a Proposal for Decision containing Findings of Fact and Conclusions of Law necessary to support a determination that Respondent violated the Act and rules adopted thereunder, as set forth in this Complaint.

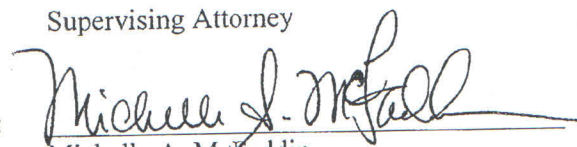
Respectfully submitted,

TEXAS BOARD OF MEDICAL RADIOLOGIC
TECHNOLOGY

CHRISTOPHER PALAZOLA
Litigation Manager

SUSAN RODRIGUEZ
Supervising Attorney

By:



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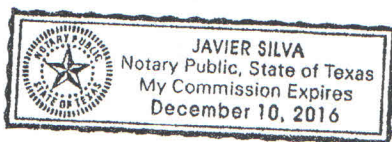
THE STATE OF TEXAS

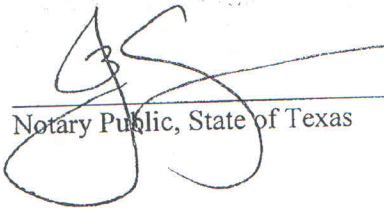
COUNTY OF TRAVIS

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SUBSCRIBED AND SWORN to before me by Michelle A. McFaddin, J.D., on

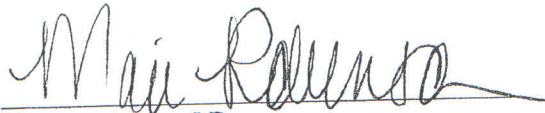
August 12, 2016.





Notary Public, State of Texas

Filed with the Texas Board of Medical Radiologic Technology on August 5,
2016.

A handwritten signature in cursive script, reading "Mari Robinson", written over a horizontal line.

Mari Robinson, J.D.
Executive Director
Texas Medical Board

CERTIFICATE OF SERVICE

I certify that on the 12th day of August, 2016, a true and correct copy of the foregoing Complaint has been served as follows:

By Email to: docketing@soah.state.tx.us

Docket Clerk
State Office of Administrative Hearings
William P. Clements Bldg.
300 W. 15th Street, Suite 504
Austin, TX 78701-1649

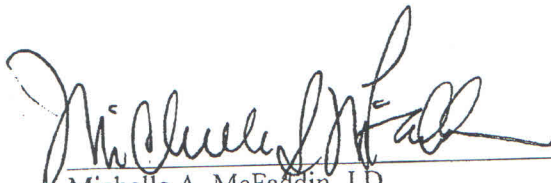
By CMRRR No. 7008 2810 0000 1325 1660, and

by First Class Mail to:

Lawrence Peter Fenti – USP Beaumont (Reg. #22251-380)
U.S. Penitentiary
P. O. Box 26030
Beaumont, Texas 77720

By Hand Delivery to:

Robin Etheridge
Hearings Coordinator
Texas Medical Board
333 Guadalupe, Tower 3, Suite 610
Austin, TX 78701


Michelle A. McFaddin, J.D.