

Dear Mr Silva,

Re: MD-17-0185A

Dan O. Harper, MD

05-22-17

You have requested my response to charges the Arizona Medical Board has made, based upon information received from the Medical Board of California.

Our attorney in the Medical Board hearings and all Superior Court claims has been Dan Deuprey, Esquire. The CA Medical Board investigations resulted in a period of three year probation for incomplete documentation only. The charges in the Superior Court, brought by the Wrights, were dropped and the claimants admitted there was no wrong doing on the part of the clinic or physician.

We have just spent over five years and over \$500,000 dealing with accusations made by the fired independent contractor, Lura Wood.

The matters involved (1) the disgruntled former technician, Lura, who contracted with the office as an independent contractor to administer Frequency Specific Microcurrent (FSM) Therapy to patients of the clinic and patients of other physicians referred to her for the FSM treatments; and (2) Mr. and Mrs. Wright (Scott and Ivette) who were close friends of Lura Wood for many years who were urged to come to the clinic for Lura to administer FSM treatments to them.

In a nutshell, Lura Wood was terminated in October 2011 for malfeasance, and in January of 2012 became very unhappy that her status as an independent contractor (which she demanded, not wanting to be an 'employee') required that she pay income taxes and made it impossible to claim unemployment benefits. She then called me at home and threatened to 'destroy the clinic' if I did not pay her \$40,000.

I was interviewed twice by the California Medical Board on the independent contractor's personal chart (she, too, had been in the MVA for which her friends were being treated), as well as her accusations in the initial complaint to the Board.

When my attorney asked that the transcripts and files of these cases be reviewed, Dr Gary Gordon, MD, and Dr Bruce Shelton, MD, in Arizona at the Arizona State Board of Homeopathic and Integrative Medicine, saw the charts and both said that what I did was within the scope of holistic practice, did not endanger the patients, and I was not guilty of any malpractice or negligence. These physicians have practiced the type of integrative medicine that I perform, and were qualified to review me and my practice as peers. The CA Medical Reviewer, as an ObGyn, was NOT one that did the scope of practice that I perform, and should have not been allowed any credibility in her comments since she was not qualified to review the case and was ignorant of the science involved.

I waited for over three years to hear the outcome of the review (published three months beyond the legal statute of limitations from the filing dates). As I gathered witnesses and scientific articles to refute the charges of negligence or endangerment, my attorney and I went before a settlement judge in November of 2016. As we sat down in the chamber, less than ten minutes before the judge was to arrive, the deputy attorney general (DAG, Tessa Heunis) handed my attorney charges from the investigation of the two friends of the independent contractor (Scott and Ivette Wright) that the independent contractor treated with FSM. The report had been sitting on the desk of that DAG for over nineteen months without sending a copy to my attorney or myself.

She said both cases (Lura Wood and the Wrights) were to be tried at one time to save the state money and to expedite things. Since this was the first time to have laid eyes on the report, we had no time to review the charges or create a list of witnesses before the judge came in. My attorney told the judge what was being done, and she asked the DAG to leave the room.

The settlement judge spoke to Mr. Deuprey and I, basically saying, “you need to know that the CA Medical Board has just dismissed two of the judges from possibly hearing your case since they ruled favorably for holistic doctors in the past. There are three potential judges to hear your case, and none of them consider holistic medicine in a favorable way. Even if you do have the science and witnesses to sway them, the executive secretary of the Medical Board, Kimberly Kirchmeyer, has stated to me that she will overturn any favorable verdict, and you will have to spend another \$250,000 to \$500,000 to try the case in California Superior Court. Do you have the money and the time to do that? Since most of the charges deal with documentation issues that are not yours (referring to Lura Wood’s lack of documentation and wrong dates, as well as material she removed from the charts), how can you defend that? Any documentation errors—yours or hers-- will still require a five year probation for you, just for Ms. Wood’s wrong doings. You will lose! If you settle now, the DAG will negotiate a three year probation with monitoring of your practice documentation. The State is not asking you to change any of your practices you are currently doing, only to have a monitor come in monthly for three years and check your charting. Can you live with that?”

We were led to believe all charges except the documentation were dropped and I was exonerated of previous references of neglect and harmful practices (which were incorrect in the first place).

At that point, we agreed to the settlement, which does not accuse us of negligence or harmful practice, only documentation issues and need for three year probation.

In fact, we understood the settlement to have the following:

1. That the settlement agreement did not contain any admissions of truth by Dr. Harper as to the substance of the allegations in the accusation;
2. That there was no finding or admissions on the merits of any allegations that Dr. Harper was grossly negligent or otherwise negligent in any way;
3. That there was no finding or admissions of fraud;
4. That there was no finding or admissions that Dr. Harper harmed any of his patients.
5. That the settlement agreement containing the “no contest” position of Dr. Harper in essence simply meant the Board and Dr. Harper had agreed to settle the case without admission of fault rather than go to a full hearing on the merits (which would have required both sides to put on evidence).

The settlement also had a clause that required me to have patients sign a form that stated that the State of California required a destructor to be in the room where ozone was being generated.

I would have liked to have had the chance to clear my name. As a result of all this settlement being placed on the internet, I was placed on the CASEWATCH and QUACKWATCH websites since it was assumed I was guilty of the charges. When the CA Medical Board published their accusations against me

on the internet three years ago, I lost my seat on all the Advisory Boards of two pharmaceutical companies, three nutraceutical companies, and two laboratory testing companies. I tenured my resignation for the Price Pottenger Nutritional Foundation to avoid dishonoring that institution. At that time, I was earning \$75,000 a year in speaker's fees. All such speaking arrangements were terminated due to the allegations, and I have been informed that I cannot be used as a speaker during the three year probation period. And if the allegations of neglect and patient endangerment are not modified by the board after the probation, I will never again be allowed to speak for the companies.

I also have been contacted by reporter, J.W. August of channel 7 NBC news, for a special report on "one of San Diego's most dangerous doctors". The later report was toned down to just accuse me of negligence and harmful practices mentioned in the Medical Board's website (despite inferences that would be removed). Other magazine and newspaper reporters have called for responses to the charges.

The American Board of Family Medicine has withdrawn my board certification while I am on probation for the 'unprofessional conduct' the Medical Board reported to them.

Nothing has been said to the Board about Lura's threats that her 'Army Ranger' husband, Peter, who allegedly 'did wet work for the CIA' would come after us. She had lied to him and told him we were having an affair.

Tires on our vehicle were slashed, brake lines cut, radiator punctured repeatedly, security features disarmed on vehicles, home and clinic, windows broken out with rocks at the clinic... for nearly three years.

My wife lives in constant terror of Peter and Lura. We moved to another home, and changed phone numbers and e-mail addresses.

This harassment only stopped when the Wood family returned to Canada for a period of time. Local police could not help us since all surveillance devices had been destroyed or rendered useless.

The PACE course for Medical Records was completed in October 2016. The Professional Ethics course was completed in Irvine in April, 2017.

Mary Ellen Shannon, MD has agreed to monitor the monthly progress at the clinic and make quarterly reports, having the approval of the Board of Medicine, and Danielle Farwell, our probation officer.

I have met with probation officer, Danielle, and have complied with materials requested from her and will arrange quarterly visits at the clinic with her.

Of note: the clinic has never failed to have a destructor in the same room since installation of the ozone unit in 2003. In fact, there were three large air filters with HEPA and carbon destructors- one within two feet of the generator. Upon the 'suggestion' of the medical reviewer, an 'inline' destructor was added, though much smaller than the other three units. The ozone generated is between 36 and 40 gamma, and only 2-3cc would 'escape' with syringe filling. The otic insufflations were performed by the opened back door with a fan blowing the generated ozone out the door, and patient and physician had

on charcoal impregnated masks that took out any ozone that could potentially be inspired. *(Please see information on ozone)*. [Please be aware that this ozone unit would have to run 24 hours a day in a closed room, cranked up to maximum capacity with higher gamma concentrations to produce a fraction of the levels the EPA has set as toxic levels in a work place.]

The Eagle Remedy Maker (or a similar device) is used by thousands of holistic practitioners in the US and hundreds of thousands in the world. The reviewer, Dr Stokes said that the Biomeridian, Scio, and Zyto units were acceptable in the standard of practice for holistic practitioners. She did not realize that these devices place the energy of the remedies tested for in their computer screening (homeopathics, Bach flower Remedies, Gemmo therapies, Radionic frequencies... energies stored in the computer program of the devices) into water with the same electronic devices as the Eagle Remedy Maker, and use the application of the energy remedies as part of their therapy. Dr Luc Montagnier, Nobel Prize winner for HIV discover, used the 'Water Memory' to take a homeopathic dilution of HIV virus, record the energy signature and transmitted the recorded energy from Paris to scientists in Rome. There, the scientists placed a vial of water under the beamed frequency (similar to the Remedy Makers), took the vial to the DNA-pcr lab and transcribed the exact original HIV viral DNA with 96% accuracy. Energy can be accurately transferred even though the Board reviewer was not aware of the science, and in her report had said these energetic screening devices were acceptable.

An ICIM course in 2015 in Chicago had two specific presentations with the Eagle Remedy Maker shown in their presentation on preparation of energetic remedies for therapeutic use. This course received AMA CME accreditation, implying that use of this information is acceptable practice. Dr Klinghardt's Academy teaches use of the Eagle Remedy Maker as part of their Energy Therapies to treat chronic diseases, such as Lyme Disease. *(Please see information on energetic remedies)*

I had received over 300 hours of training from Bridgette Pellet of Kalispell, a certified craniosacral therapist. In **craniosacral therapy (CST)**, principles from Becker, Sutherland, and others who established CST, describe the flow of energy and primal respiratory movement, release of energy, and other things that I tried to impart to the deputy attorney generals in a simplistic way. At least three of the over 1300 CST techniques are there to expressly remove inflammation for tissues in the way I described to the interviewers that the reviewer was not familiar with. After the findings of the reviewer, I took another 'Healing Touch' course at Scripp's Integrative Clinic, and they have a technique explicitly termed "Pain Drain" where negative energy flows out of the patient's injured part, through the 'healer', and released into the atmosphere.

There is only one article in all of pubmed literature that describes the adverse effects from 'incorrect' use of CST—and that was with 55 traumatically brain injured patients over a twenty-five year period where 3% of them initially experience headaches, increased pain or anxiety while 'reliving' the experience, but it cleared quickly and never recurred. This was another article the reviewer found on Quackwatch.

Since these accusations, I paid \$3600 to have a 120 hour CST course to receive a 'piece of paper' in case I ever need to relieve pain in an acute situation or calm chronic pain to deal with other underlying problems in a more comfortable manner. *(Please see CST certification from Chadwell Course)*

As a licensed physician, I am allowed to touch a person with informed consent after obtaining permission from the person, and do not have to be 'certified' in every field of endeavor.

The Medical Board reviewer wrongfully decided **cold red lasers** are dangerous to retinas. *Class 1 and Class 1M do not require protective lens.* I had a Spectrum Laser that was Class 1M that I used to help with pain. The setting of '4' on the device was specifically for decreasing inflammation and pain. It was pre-selected by me at each session. I used it for relief of TMJ pain and trigger point pain on rare occasion. Some of my chronic pain patients would have flares and come in to the office requesting use of the unit (at no charge). They wanted to try the cold red laser rather than going to the ER for a pain shot. I felt did not need to see them again for the known problem that had been evaluated and worked up, so I would pull the laser out of the cabinet and the medical assistant would let them sit alone in the waiting room chair. The patient would run the 5 minute program over the sore area. The cold red laser would then be returned to the cabinet after I was finished with the scheduled patient I was seeing. The receptionist documented the use of the laser in the chart. Patients that really got benefits were urged to purchase their own cold red laser when they could afford to. *(Please see information on laser therapy)*

FSM technicians are not licensed. Lura Wood and I had both taken the Basic Course and Advanced Course offered by the inventor of the device, Carolyn McMakin, DC. The treatment units cannot be purchased without such courses. Once the programs on the FSM that have been shown to produce benefits are established, there are customer units that can be purchased by the patient. This unit would then be programmed by the FSM provider, and sent home to let the patient run the programs on a prescribed frequency of treatments. The areas of application of pads clearly were defined for each program. There is the ability to monitor programs run on the device that lets the prescriber see what programs were performed and when. Such a device was recommended for Scott and Ivette after the third month, but the attorney said he wanted the FSM done at the clinic. I was not aware of this scheme to run up a bill and split it three ways. *(Please see FSM certification)*

The **poor documentation** was mostly in Lura Wood's charting. In the basic FSM course taught by Dr McMakin, these things were described as necessary for proper documentation. I was unaware of her poor record keeping since I did not review her records as they were not a part of our clinic.

The Wrights' attorney (James Weaver) asked me to perform an AMA disability level for Scott since he was much worse after the accident, though already on disability. This was performed, using Scott's old records, old disability determination reports, and the 7th edition of the AMA disability book. The medical board reviewer said that Family Physicians are not qualified to do disability reports. That statement is not correct, either.

These complaints to the Medical Board were brought by a disgruntled former 'employee'. There were no patient complaints, no one was injured, there were no deaths, no one was harmed... There was no negligence (since no protective lens were needed; ozone generations were infrequent and miniscule; microcurrent treatments were controlled and logged...). ***So, please, tell me why this 'term' of negligent harm is allowed to be bantered around by a reviewer who that knows nothing of which she is referring to.*** I still do not feel that I have had the chance for a physician peer at the Medical Board of California to review my case, nor have I had a chance to respond to the misinformation generated by Dr Stokes.

I have included an updated CV, updated CMEs and certifications, information on ozone, cold red lasers, energetic remedy makers and other items I would have used in my hearing that was prevented by the last minute change of venue by the DAG previously described.

I am improving my documentation in my charts, and I am trying to apply all the good information I received from Dr Murray, one of the medical board interviewers. It is my hope that someday, that any 'correct' information provided by the medical holistic reviewer will be summarized and expanded to assist physicians wanting to do advanced scientific therapies for complex conditions that are not responding to traditional allopathic medicine.

I had tried to 'stay under the radar' for decades, doing holistic medicine, not knowing what the Medical Board accepted and what was not considered 'kosher'. I now embrace the opportunity to use this experience to share with other integrative physicians the need for certification of trainings, use of informed consents, and thorough documentation in their charts.

Thank you for taking time to read my responses and explanations of what I perceived happened. I have much to learn despite over 40 years of medical practice, and look forward to doing it correctly with your help.

Mr. Dan Deuprey, our attorney, has stated that he does not have an Arizona law license, and cannot represent me at an AZ Medical Board hearing. If needed, I will obtain an attorney familiar with Medical Board Administrative Law that has an AZ license to come to any hearing you request. If need be, I will gladly pay for yet another review by a physician from the AZ State Board of Homeopathic and Integrative Medicine who is qualified to make a discernment on energetic medicine.

What I have stated is true and correct to the best of my knowledge, given under the penalty of perjury for wrongful information in the State of California.

Sincerely,

Dan O. Harper, MD