

A. RELEVANT BACKGROUND

1. The Alabama complaint against my temporary license and denial of application for permanent licensure

I have been practicing medicine as a fully licensed physician since 2012. Prior to August 2020, I had never been subject to any disciplinary action by any Medical Board or other entity. In August 2020, I was the subject of an administrative complaint and summary suspension against my temporary Alabama license by the Alabama Board of Medical Examiners (the “Alabama Board”), and the Alabama Board also denied my application for a Certificate of Qualification (“COQ”), which in Alabama is the precursor to permanent licensure.

The administrative complaint followed the Board’s receipt of a physician complaint against me, which was based on my public statements regarding abortion care. The complaining physician asserted that my statements were inconsistent with the professional conduct expected of physicians. The Board listed such “unprofessional conduct” as a basis for denying my COQ and added a number of additional reasons, asserting that I had given inaccurate or fraudulent answers to four questions on my COQ application.

Both the summary suspension of my temporary license and the denial of the COQ with respect to my application for permanent licensure were undertaken without any notice or opportunity for me to respond. A “post-deprivation” hearing was set before the Alabama Medical Licensure Commission for December 2020.

2. Relevant factual history

Most of the alleged problems with the Alabama application stemmed from difficulties I suffered in 2018—difficulties which, importantly, were unrelated to my practice of medicine or my professional competence.

In March 2018, I made comments on social media (Twitter) about abortion care, in response to someone who had accused me of infanticide. In those comments, I referenced “transect[ing] the cord.” In context, I obviously was referring to the umbilical cord, but the comments were deliberately misconstrued by anti-abortion activists as stating that I cut the vocal cords of fetuses during abortion procedures. These activists and certain media figures fanned the flames of this false controversy until I became the subject of serious harassment and threats on the internet and through calls to my workplace.

This harassment had numerous effects on me, including that I agreed with my employer, the Rocky Mountain Women’s Health Clinic in Salt Lake City, Utah, that it would be best for everyone’s safety and for the operations of the clinic if I left my employment with the clinic. I signed a mutual separation agreement by which I stopped seeing patients at the clinic in March 2018, with an official last day of employment in June 2018. During the balance of 2018, I was contracted with a locum tenens company (Weatherby), but was not actually placed in a position and did not see patients. Ultimately, I secured employment with a clinic in Carlsbad, New Mexico, accepting the job in December 2018 and starting employment in February 2019.

I also filed a defamation suit in Utah federal court against several media outlets which had made false statements about me and fanned the flames of the false controversy over my Tweet, leading to the harassment I experienced.

I accounted for my employment history accurately in my Alabama application, but the Alabama Board claimed that I had answered inaccurately with regard to the dates of my employment, and also claimed portions of my defamation suit should have resulted in different answers on my Alabama application.

Another issue in the Alabama disciplinary matter was a malpractice suit I had settled in 2018. I admitted no fault in connection with the settlement and was not found at fault by the hospital's own investigation. However, I mistakenly failed to report the suit and settlement on my Alabama application in June 2020. (I provided documentation immediately when the Board inquired of me about the matter in early July 2020.)

The reason that I did not report the malpractice suit in Alabama was that the wording of the Alabama application is much different than many other states, and I interpreted that wording to apply only to cases resolved by a court, rather than by voluntary settlement. There was no reason for me to believe that the existence of the settlement would have prevented me from receiving an Alabama license, and at any rate I was aware that the settlement was in the National Practitioner Data Bank ("NPDB") and would be retrieved by the Alabama Board.

3. The Alabama hearing

My "post-deprivation" hearing in Alabama took place on December 21, 2020. At that hearing, first it was determined that the issues related to my temporary license were moot, as the license would have expired in November 2020 in any event. Therefore, the complaint against my temporary license was dismissed, and the hearing went forth on my appeal from the denial of my COQ application. However, in order to make sure that the Commission understood I had nothing to hide, I also voluntarily addressed the issues that had been raised in the dismissed complaint.

The hearing lasted the better part of the day, with my testimony lasting two hours or more. Largely, this was due to the volume of complaints against me, a number of which I felt were not even colorable, but which nevertheless required detailed response. My contentions were that I had not engaged in any unprofessional conduct; that my answer with regard to the malpractice settlement was incorrect, but was based on a reasonable mistake in interpreting the question; and that my answers to the other questions at issue had been correct.

After the hearing, on December 29, 2020, the Licensure Commission issued an order directing the Board to grant the COQ application upon completion of two conditions: completion of an ethics course and issuance and payment of a non-disciplinary citation and administrative fine. The Commission declined to endorse the Board's denial of my COQ application or any of the Board's specific allegations. However, it ordered the above conditions due to a concern that "there were elements in some of Dr. Torres' answers in her application which, in their totality, were suggestive of deceptive answers and a lack of ethical integrity expected of practicing physicians in Alabama."

Importantly, none of the actions taken by the Commission were designated as adverse actions, and the Commission made no report to the NPDB. While I did not agree with the Commission's reservations, I complied fully with the conditions ordered and received my COQ and medical license.

I believe it is worth noting that following my successful appeal, the Alabama Board of Medical Examiners voided the report it had made to the NPDB of the adverse action it had taken and that I had appealed. In doing so, it used the following words: "The action was overturned on appeal. The action was reversed because the original action should never have been taken."