LICENSE NO. G-3869

IN THE MATTER OF

THE LICENSE OF

DAVID L. TURNER, M.D.

BEFORE THE

TEXAS MEDICAL BOARD

MEDIATED AGREED ORDER

On the 26th day of August, 2016, came on to be heard before the Texas Medical Board (the Board), duly in session, the matter of the license of David L. Turner (Respondent).

On May 12, 2015, Respondent appeared in person, with counsel, Ace Pickens, at an Informal Show Compliance Proceeding and Settlement Conference in response to a letter of invitation from the staff of the Board. The Board’s representatives were Stanley Wang, M.D., J.D., MPH, a member of the Board, and Phillip Worley, a member of a District Review Committee (Panel). Heather R. E. Pierce represented Board staff.

A formal complaint was subsequently filed at the State Office of Administrative Hearings (SOAH) under SOAH Docket No. 503-15-5644.MD. Prior to going to a final hearing at SOAH, the matter was referred to SOAH mediation. Stanley Wang, M.D., J.D., MPH, participated as the Board’s representative and prior to the mediation at SOAH set for August 22, 2016 the parties were able to reach an agreement. As a result of the mediation, this Mediated Agreed Order was agreed upon. Ace Pickens represented Respondent. Heather R. E. Pierce represented Board staff.

BOARD CHARGES

Board staff charged that Respondent engaged in unprofessional conduct with one patient. Specifically, it has been alleged that Respondent sexually assaulted one patient in his office while she was there for an appointment on September 22, 2012. Respondent also failed to document this patient’s visit to his office.

BOARD HISTORY

Respondent has not previously received a disciplinary order from the Board.
Upon the recommendation of the Board’s representatives and with the consent of Respondent, the Board makes the following Findings and Conclusions of Law and enters this Agreed Order.

FINDINGS

The Board finds the following:

1. **General Findings:**
   a. Respondent received all notice required by law. All jurisdictional requirements have been satisfied. Respondent waives any defect in notice and any further right to notice or hearing under the Medical Practice Act, Title 3, Subtitle B, Texas Occupations Code (the Act) or the Rules of the Board.
   b. Respondent currently holds Texas Medical License No. G-3869. Respondent was originally issued this license to practice medicine in Texas on February 27, 1983. Respondent is not licensed to practice in any other state.
   c. Respondent is primarily engaged in the practice of General Practice. Respondent is not board certified.
   d. Respondent is 61 years of age.

2. **Specific Findings:**
   a. On October 18, 2012, an attorney, who is now deceased, was alleged to have told detectives at Dallas Police Department headquarters that Respondent had consensual sex with the patient in his office on September 22, 2012.
   b. On July 16, 2013, Respondent was indicted for sexual assault, a second degree felony, in Dallas County. The criminal charges were later dismissed by the District Attorney for lack of evidence.
   c. Numerous attempts were made to contact the patient in this case; however, the patient never responded.
   d. A review of the patient’s medical and billing records showed that Respondent did not record an office visit nor did he bill for the patient on September 22, 2012.
   e. There were some concerns/questions about the credibility of the patient.
3. **Mitigating Factors:**

In determining the appropriate sanctions in this matter, the following mitigating factors were considered:

a. Respondent self-reported the issue to the Board.

b. Respondent has no prior disciplinary history.

c. Respondent has no previous history of boundary issues with any patient and this matter seems to be an isolated event.

d. Respondent has cooperated in the investigation of the allegations related to this Agreed Order. Respondent neither admits nor denies the information given above. To avoid further investigation, hearings, and the expense and inconvenience of litigation, Respondent agrees to the entry of this Agreed Order and to comply with its terms and conditions.

**CONCLUSIONS OF LAW**

Based on the above Findings, the Board concludes that:

1. The Board has jurisdiction over the subject matter and Respondent pursuant to the Act.

2. Section 164.051(a)(1) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent’s commission of an act prohibited under Section 164.052 of the Act.

3. Section 164.051(a)(3) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent’s violation of a Board rule, specifically Board Rule 165.1, which requires the maintenance of adequate medical records.

4. Section 164.052(a)(5) of the Act authorizes the Board to take disciplinary action against Respondent based upon Respondent’s unprofessional or dishonorable conduct that is likely to deceive or defraud the public or injure the public, as further defined by Board Rule: 190.8(2)(F), engaging in sexually inappropriate behavior or comments directed towards a patient.

5. Section 164.001 of the Act authorizes the Board to impose a range of disciplinary actions against a person for violation of the Act or a Board rule.

6. Section 164.002(a) of the Act authorizes the Board to resolve and make a disposition of this matter through an Agreed Order.
7. Section 164.002(d) of the Act provides that this Agreed Order is a settlement agreement under the Texas Rules of Evidence for purposes of civil litigation.

ORDER

Based on the above Findings and Conclusions of Law, the Board ORDERS that Respondent shall be subject to the following terms and conditions:

1. This Agreed Order shall constitute a PUBLIC REPRIMAND of Respondent, and Respondent is hereby reprimanded.

2. Within one year from the date of the entry of this Order, Respondent shall enroll in and successfully complete the professional boundaries course offered by University of California San Diego Physician Assessment and Clinical Education (PACE) program or an equivalent course approved in advance by the Executive Director. To obtain approval for a course other than the PACE course, Respondent shall submit in writing to the Compliance Division of the Board information on the course that includes description of the course content, faculty, course location, and dates of instruction. Respondent shall submit documentation of attendance and successful completion of this requirement to the Compliance Division of the Board on or before the expiration of the time limit set forth for completion of the course.

3. Within one year from the date of the entry of this Order, Respondent shall enroll in and successfully complete at least 16 hours of continuing medical education (CME) approved for Category I credits by the American Medical Association, to be divided as follows: eight hours in the topic of ethics and eight hours in the topic of risk management, approved in writing in advance by the Executive Director or their designee. To obtain approval for the course, Respondent shall submit in writing to the Compliance Department information on the course, to include at least a reasonably detailed description of the course content and faculty, as well as the course location and dates of instruction. Respondent shall submit documentation of attendance and successful completion of this requirement to the Compliance Department on or before the expiration of the time limit set forth for completion of the course. The CME requirements set forth in this paragraph shall be in addition to all other CME required for licensure maintenance.

4. Respondent shall pay an administrative penalty in the amount of $2,000 within 60 days of the date of the entry of this Order. The administrative penalty shall be paid in a single payment by cashier's check or money order payable to the Texas Medical Board and shall be
submitted to the Board for routing so as to be remitted to the Comptroller of Texas for deposit in the general revenue fund. Respondent's failure to pay the administrative penalty as ordered shall constitute grounds for further disciplinary action by the Board, and may result in a referral by the Executive Director of the Board for collection by the Office of the Attorney General.

5. At all times while Respondent is under the terms of this Order, Respondent shall give a copy of this Order to all hospitals, nursing homes, treatment facilities, and other health care entities where Respondent has privileges, has pending an application for privileges, applies for privileges, or otherwise practices. Within 30 days of being first contacted by the Compliance Division of the Board following entry of this Order, Respondent shall provide to the Compliance Division of the Board documentation, including proof of delivery, that the Order was delivered to all such facilities.

6. The time period of this Order shall be extended for any period of time that: (a) Respondent subsequently practices exclusively outside the State of Texas; (b) Respondent's license is subsequently cancelled for nonpayment of licensure fees; (c) this Order is stayed or enjoined by Court Order; or (d) for any period of time longer than 60 consecutive days that Respondent does not actively practice medicine. If Respondent leaves Texas to practice elsewhere or ceases active practice for more than 60 consecutive days, Respondent shall immediately notify the Board in writing. Upon Respondent's return to active practice or return to practice in Texas, Respondent shall notify the Board in writing. When the period of extension ends, Respondent shall be required to comply with the terms of this Order for the period of time remaining on the Order. Respondent shall pay all fees for reinstatement or renewal of a license covering the period of extension or tolling.

7. Respondent shall comply with all the provisions of the Act and other statutes regulating the Respondent’s practice.

8. Respondent shall fully cooperate with the Board and the Board staff, including Board attorneys, investigators, compliance officers, consultants, and other employees or agents of the Board in any way involved in investigation, review, or monitoring associated with Respondent's compliance with this Order. Failure to fully cooperate shall constitute a violation of this order and a basis for disciplinary action against Respondent pursuant to the Act.

9. Respondent shall inform the Board in writing of any change of Respondent’s office or mailing address within 10 days of the address change. This information shall be
submitted to the Registration Department and the Compliance Department of the Board. Failure to provide such information in a timely manner shall constitute a basis for disciplinary action by the Board against Respondent pursuant to the Act. Respondent agrees that 10 days notice of a Probationer Show Compliance Proceeding to address any allegation of non-compliance of this Agreed Order is adequate and reasonable notice prior to the initiation of formal disciplinary action. Respondent waives the 30-day notice requirement provided by §164.003(b)(2) of the Medical Practice Act and agrees to 10 days notice, as provided in 22 Texas Administrative Code §187.44(4).

10. Any violation of the terms, conditions, or requirements of this Order by Respondent shall constitute unprofessional conduct likely to deceive or defraud the public, or to injure the public, and shall constitute a basis for disciplinary action by the Board against Respondent pursuant to the Act.

11. Respondent shall be permitted to supervise and delegate prescriptive authority to physician assistants and advanced practice nurses and to supervise surgical assistants.

12. This Order shall automatically terminate upon Respondent’s submission of sufficient evidence to the Compliance Division of the Board that Respondent successfully completed the requirements ordered in Ordering Paragraph Nos. 2, 3, 4 and 5.

RESPONDENT WAIVES ANY FURTHER HEARINGS OR APPEALS TO THE BOARD OR TO ANY COURT IN REGARD TO ALL TERMS AND CONDITIONS OF THIS AGREED ORDER. RESPONDENT AGREES THAT THIS IS A FINAL ORDER. THIS ORDER IS A PUBLIC RECORD.

SIGNATURE PAGES TO FOLLOW.
I, DAVID L. TURNER M.D., HAVE READ AND UNDERSTAND THE FOREGOING AGREED ORDER. I UNDERSTAND THAT BY SIGNING, I WAIVE CERTAIN RIGHTS. I SIGN IT VOLUNTARILY. I UNDERSTAND THIS AGREED ORDER CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

DATED: August 22, 2016.

[Signature]
DAVID L. TURNER
Respondent
SIGNED AND ENTERED by the presiding officer of the Texas Medical Board on this 

26th day of August, 2016.

[Signature]

Michael Arambula, M.D., Pharm.D., President
Texas Medical Board