

ALABAMA STATE BOARD OF)	
MEDICAL EXAMINERS	:	
)	BEFORE THE MEDICAL LICENSURE
Complainant,	:	
-vs-)	COMMISSION OF ALABAMA
	:	
HERBERT RAY EVERS, M.D.,)	CASE NO. <u>85-009</u>
	:	
Respondent.)	

COMPLAINT AND PETITION FOR
REVOCATION OF LICENSE

Comes now the Alabama State Board of Medical Examiners and submits herein its sworn petition pursuant to the authority of §34-24-361(e) (1), Code of Alabama, 1975, and respectfully submits into the Medical Licensure Commission as follows:

1. That the Respondent, Herbert Ray Evers, M.D., was duly licensed to practice medicine as a physician under the laws of the State of Alabama on May 11, 1960, having been duly issued license certificate number 2275.

2. The Alabama State Board of Medical Examiners after investigation into the facts and circumstances surrounding the treatment of Maxie Walker at Evers Health Clinic by Herbert Ray Evers, M.D. during the period April 14, through April 26, 1985, has concluded that there exists probable cause to believe that the Respondent has committed the following acts or offenses in violation of §34-24-360 Code of Alabama, 1975:

(2) Immoral, unprofessional or dishonorable conduct as defined herein or in the rules and regulations promulgated by the commission:

(3) Practicing medicine or osteopathy in such a manner as to endanger the health of the patients of the practitioner;

(7) Use of any untruthful or deceptive or improbable statements concerning the licensee's qualifications or the effects or results of his proposed treatment;

(9) Gross malpractice or repeated malpractice or gross negligence in the practice of medicine or osteopathy;

(11) Performance of unnecessary diagnostic tests or medical or surgical services;

3. That during the period April 14, through April 26, 1985 the Respondent engaged in the practice of medicine in such a manner as to endanger the health of one Maxie Walker, a patient then under his care, in violation of §34-24-360(3) Code of Alabama, 1975.

A. Specifically the Board charges that the Respondent initiated or caused to be initiated therapeutic treatments using drugs, medications, substances or therapies that the Respondent knew or reasonably should have known were hazardous to the health of the patient and exposed the health of the patient to unreasonable risk of harm.

B. The Board further specifically charges that the Respondent and/or agents or employees of the Respondent under his direction and supervision failed to adequately diagnose and treat life threatening medical conditions suffered by Maxie Walker during the course of her treatment.

C. The Board further specifically charges that the Respondent initiated or caused to be initiated an unproven and untested therapeutic treatment consisting of substances called Ointment A and Ointment Z which the Respondent knew or reasonably should have known constituted a unreasonable hazard to the health of the patient and that the Respondent abandoned the treatment of his patient to the care of a physician who was not familiar with the drugs, medications, substances and therapies employed by the Respondent.

D. The Board further specifically charges that the Respondent and/or agents or employees of the Respondent under his direction and supervision wrongfully conducted medical experiments upon his patient Maxie Walker

without adequately informing the patient of the risk of harm to her health by the use of untested and unproven drugs, medicines and therapies.

4. That the Respondent used untruthful or deceptive or improbable statements concerning the effects or results of his proposed treatment of one Maxie Walker, a patient then under his care, in violation of §34-24-360(7) Code of Alabama, 1975.

A. The Board specifically charges that the Respondent and/or the agents or employees of the Respondent under his direction and supervision represented to Maxie Walker, a patient under his care, that a proposed therapeutic treatment for malignant carcinoma of the breast using Ointment A and Ointment Z would cause the malignant tumors to come out through the skin when in fact the Respondent knew or reasonably should have known that such representation was false, or untrue or deceptive.

B. The Board further specifically charges that the Respondent or agents or employees of the Respondent under his supervision and control represented to Maxie Walker, a patient under his care, that a substance known as dimethyl sulfoxide (DMSO) was effective in the treatment of malignant carcinoma of the breast when the Respondent knew or reasonably should have known that such representations were false or untrue or deceptive.

C. The Board further specifically charges that the Respondent or agents or employees of the Respondent under his supervision and control represented to Maxie Walker, a patient under his care, that a substance known as laetril was effective in the treatment of malignant carcinoma of the breast when the Respondent knew or reasonably should have known that such representations were false or untrue or deceptive.

D. The Board further specifically charges that the Respondent or agents or employees of the Respondent under his supervision and control represented to Maxie Walker, a patient under his care, that substances known as Ointment A and Ointment Z were effective in the treatment of malignant carcinoma of the breast when the Respondent knew or reasonably should have known that such representations were false or untrue or deceptive.

5. The Board charges that the Respondent is guilty of gross malpractice in the treatment of Maxie Walker during the period April 14 through April 26, 1985 while she was a patient under the care of the Respondent in violation of §34-24-360(9) Code of Alabama, 1975.

A. The Board specifically charges that the Respondent committed gross malpractice in the treatment of Maxie Walker by the conscious or knowing administration of untested and unproven drugs, medications, salves, ointments, therapies or devices for the treatment of malignant carcinoma of the breast with careless and reckless indifference to the harmful consequences of such action.

B. The Board further specifically charges that the Respondent committed gross malpractice in the treatment of Maxie Walker, a patient then under his care, by consciously or knowingly performing experimentation on a human subject without the patients express informed consent and without providing the patient an adequate explanation of the possible risk of harm from such experimentation demonstrating a careless and reckless indifference to the consequences of such action.

C. The Board further specifically charges that the Respondent committed gross malpractice in the treatment of Maxie Walker, a patient then under his care, in that the Respondent individually and acting through

agents and servants and employees of the Respondent under his direction and supervision failed to adequately monitor the condition of the patient and failed to detect and treat life threatening medical conditions from which the patient suffered, demonstrating conscious disregard of known conditions of danger to the patient.

6. That during the period April 14 through April 26, 1985 the Respondent demonstrated unprofessional conduct in the treatment of Maxie Walker, a patient then under his care, in violation of §34-24-360(2) Code of Alabama, 1975.

A. The Board specifically charges that the Respondent committed and demonstrated unprofessional conduct by promoting, advocating and/or administering untested, unproven and worthless cures and remedies in the treatment of malignant carcinoma of the breast to his patient Maxie Walker.

B. The Board further specifically charges that the Respondent committed and demonstrated unprofessional conduct by making deceptive, untrue and improbable claims to Maxie Walker concerning the effectiveness or results of his treatments and remedies in connection with the treatment of his patient for malignant carcinoma of the breast.

C. The Board further specifically charges that the Respondent committed and demonstrated unprofessional conduct by the use of untested and unproven and worthless medicines, drugs, therapies or devices in the treatment of malignant carcinoma of the breast of Maxie Walker, a patient then under his care, and that the Respondent knew or reasonably should have known that such untested and unproven and worthless medications, drugs, therapies, devices or treatments would be of no medical benefit to the patient, were worthless, and entailed unwarranted risks of harm to the health of the patient.

7. The Board charges that during the period April 14 through April 26, 1985 the Respondent performed or directed the performance of unnecessary diagnostic tests and medical services in connection with his treatment of Maxie Walker, a patient then under his care, in violation of §34-24-360(11) Code of Alabama, 1975.

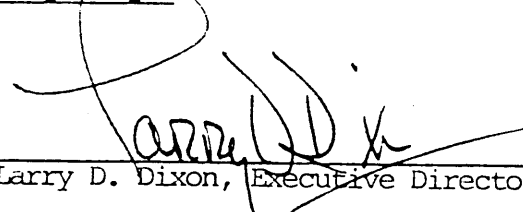
A. The Board specifically charges that during the period that Maxie Walker was a patient at the Evers Health Care Center and under the care of the Respondent, the Respondent performed, ordered or caused to be performed or ordered numerous x-rays, laboratory and diagnostic tests and performed or caused to be performed numerous medical services including hyperbaric oxygen treatments, hydrotherapy, coffee enemas, chelation, accupath 1000 & iridology, electrical muscle stimulants, massages, mineral sit baths, ozone therapy, and spinal checks which the Respondent knew or reasonably should have known were not medically necessary in the diagnosis and treatment of the medical condition from which the patient suffered.

Wherefore, the foregoing premises considered, the Alabama State Board of Medical Examiners respectfully requests that the Medical Licensure Commission take jurisdiction of this complaint and petition for revocation of license and set a hearing upon this complaint and issue the notice required by law and order that the Respondent, Herbert Ray Evers, M.D., appear and answer the allegations of the complaint. The Board further requests that at the conclusion of this hearing the Medical Licensure Commission revoke the license to practice medicine of Herbert Ray Evers, M.D. in the manner prescribed by law for the protection of the public and the patients of the licensee.

This complaint is executed for and on behalf of the Alabama State Board of Medical Examiners by its Executive Director pursuant to the

instructions of the Board contained in a resolution of November 20, 1985, a copy of which is attached hereto and incorporated herein.

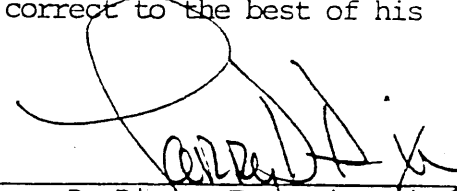
Executed this 25th day of November, 1985.



Larry D. Dixon, Executive Director

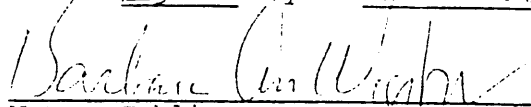
STATE OF ALABAMA)
)
MONTGOMERY COUNTY)

Before me, the undersigned, personally appeared Larry D. Dixon, who, being by me first duly sworn, deposes and says that he, in his capacity of Executive Director of the Alabama State Board of Medical Examiners, has examined the contents of the foregoing Complaint and Petition and affirms that the contents thereof are true and correct to the best of his knowledge, information and belief.

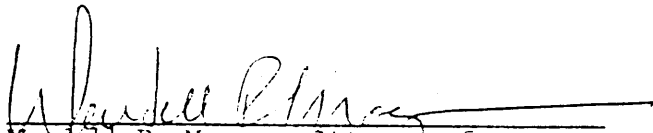


Larry D. Dixon, Executive Director
Alabama State Board of Medical
Examiners

SWORN TO AND SUBSCRIBED before me this 25th day of November, 1985.



Notary Public
My Commission Expires: 11/7/85



Wendell R. Morgan, Attorney for
Board of Medical Examiners
Post Office Box 946
Montgomery, AL 36102-0946
(205) 261-4739

STATE OF ALABAMA)
)
MONTGOMERY COUNTY)

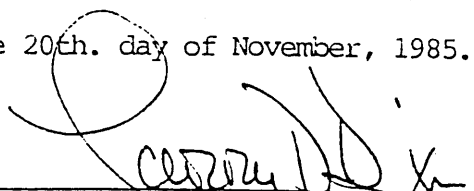
A F F I D A V I T

Before me, the undersigned, personally appeared Larry D. Dixon, Executive Director of the Alabama State Board of Medical Examiners, who being first duly sworn, deposes and says as follows:

"The Alabama Board of Medical Examiners, in its regular monthly meeting of November 20, 1985, at Montgomery, Alabama, a quorum of the Board being present, in open meeting, conducted an investigation into the medical practices of Herbert Ray Evers, M.D., and that at the conclusion of the investigation, the Board adopted the following resolution:

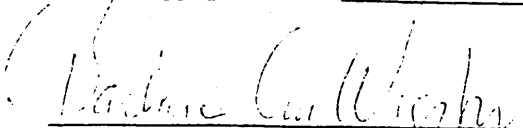
Herbert R. Evers, M.D., Cottonwood. After review of the current status of the investigation, the Credentials Committee recommended the filing of a Complaint for Revocation of Dr. Evers' License to the Medical Licensure Commission. The motion was adopted.

I further certify that the foregoing resolution was adopted by the Alabama Board of Medical Examiners on the 20th. day of November, 1985.



Larry D. Dixon, Executive Director
Alabama Board of Medical Examiners

SWORN TO AND SUBSCRIBED before me this 25th day of November, 1985.



Notary Public
My Commission Expires: 11/7/86