

**BEFORE THE MEDICAL LICENSURE COMMISSION
OF ALABAMA**

ALABAMA STATE BOARD OF MEDICAL)	
EXAMINERS,)	
Complainant,)	
vs.)	Case No. 2020-145
KATHLEEN A. CULLEN, M.D.)	
Respondent.)	
_____)	

FINAL ORDER

This matter came before the Medical Licensure Commission for final hearing on November 23, 2020 on the Administrative Complaint filed in the above action. Dr. Cullen, being duly notified in accordance with the Alabama Administrative Procedures Act, was not present and was not represented by counsel. By order of the Commission, the said hearing was continued and re-commenced on January 27, 2021 to allow Dr. Cullen to appear. On January 19, 2021, the Commission issued a supplemental order directing Dr. Cullen to produce five (5) medical charts for Alabama patients “for whom Dr. Cullen ordered tests while providing telemedicine services under contract for or employment by Bronson Medical.” The Commission also ordered Dr. Cullen to produce five (5) medical charts for Alabama patients for whom a mid-level professional working under a collaborative practice agreement with Dr. Cullen prescribed medication as part of the mid-level’s and Dr. Cullen’s provision of telemedicine services for Bronson Medical.

Dr. Cullen appeared by video technology on January 27, 2021 and gave testimony. From the testimony and evidence submitted at said hearings the Medical Licensure Commission of Alabama finds as follows:

The following general facts noted during the investigation and hearing which were ancillary to the formal charges:

1. Regarding the conduct of the hearing, the evidence presented and not presented, and Dr. Cullen's actions and behavior, the Commission specially notes that Dr. Cullen was uncooperative, evasive, slow to respond to the Board's legitimate requests, delayed the proceedings without cause, and failed to show for the November 2020 hearing despite having adequate notice. Dr. Cullen did not respond to repeated attempts to contact her by both the Board and the Commission's staff, and she did not answer any mail that was delivered to her address of record. Her responses to email inquiries were substantially delayed and intermittent, despite the Board and Commission verifying that she received email at the address used by both agencies.

Dr. Cullen intentionally failed to provide the information the Commission needed to make a determination on the charges against her license. Specifically, she failed to produce medical records which she claimed were held by Bronson Medical, but which related to patients to whom she provided medical care. Dr. Cullen was evasive in her testimony regarding her ordering of medical tests, and her collaboration with mid-level providers, and she failed to produce any evidence that she ever communicated with her collaborating advanced practice nurses.

The Board presented evidence at the November 2020 hearing that Dr. Cullen's relationship with Bronson Medical and her ordering of genetic tests and other medical tests were consistent with known healthcare fraud schemes that are currently being carried out across the

country. The Board issued subpoenas to Dr. Cullen and to Bronson Medical in an effort to present evidence concerning this suspected fraud. However, neither Dr. Cullen nor Bronson Medical were able to access or produce any records prior to the hearing. The Commission suspects that these omissions were intentional but, without the records, the Commission is not reasonably satisfied that substantial evidence exists to prove whether Dr. Cullen committed fraud herself, or whether she was the unwitting accessory to fraud by Bronson Medical. Nevertheless, Dr. Cullen's irregular doctor-patient relationship left her open to such fraud if it occurred

1. That Dr. Kathleen Cullen had a contract with Bronson Medical, L.L.C. under which Dr. Cullen performed telemedicine services, signed off on medical tests, and reviewed charts; that Dr. Cullen did not interact directly with any patients in the work she did for Bronson Medical; that she performed no physical examinations and did not speak with the patients directly; that all patient contact was carried out by the nurse practitioner with whom she had a collaborative practice agreement;

2. That Dr. Cullen's oversight of the nurse practitioner with whom she had a collaborative agreement consisted solely of periodic chart reviews; that she failed to maintain a written standard protocol signed by the physician and the nurse practitioner specifying a plan for quality assurance management with defined quality outcome measures for evaluation of clinical practice of the nurse practitioner; that Dr. Cullen did not travel to Alabama to meet with or otherwise supervise the nurse practitioner while interacting with patients.

Based upon these findings, the Commission concludes as follows:

1. That Kathleen A. Cullen, M.D. failed to provide professional medical oversight and direction to her certified registered nurse practitioner as required by Ala. Admin. Code §

540-X-8-.01(a), which is a violation of a rule of the Board of Medical Examiners as set out in Ala. Code § 34-24-360(23);

2. That Kathleen A. Cullen, M.D. failed to specify a plan for quality assurance management with defined quality outcome measures for evaluation of the clinical practice of the certified registered nurse practitioner as set out in Ala. Admin. Code § 540-X-8-.08(8)(g), which is a violation of a rule of the Board of Medical Examiners as set out in Ala. Code § 34-24-360(23).

It is, therefore, ORDERED as follows:

1. That Kathleen A. Cullen, M.D. be and is hereby REPRIMANDED;
2. That Kathleen A. Cullen, M.D. be and is hereby fined ten thousand dollars (\$10,000);
3. That the license to practice medicine in the state of Alabama be and is hereby revoked; that said revocation be and is hereby stayed and the license placed on probation subject to the following terms:
 - a. Within six (6) months of the date of this order, Dr. Cullen shall successfully complete a continuing medical education course on ethics approved by the Alabama Board of Medical Examiners; and
 - b. Within six (6) months of the date of this order, Dr. Cullen shall pay the \$10,000 fine issued in this case.
4. The Commission will consider lifting the probation set out herein upon completion of the terms set out in item 3 above.

5. That Kathleen A. Cullen, M.D.'s license to practice medicine in the state of Alabama be and is hereby RESTRICTED hereafter as follows: Dr. Cullen shall not enter into a collaborative practice agreement with, employ or supervise an advanced practice provider.

Done this 24th day of February, 2021.



GEORGE C. SMITH, SR., M.D.
Chairman, Medical Licensure Commission
of Alabama

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ORDER

A hearing in the above case was held on November 23, 2020. Dr. Cullen did not appear for said hearing and did not give testimony or submit any evidence. The Medical Licensure Committee has determined that it would like to hear from Dr. Cullen in her defense prior to issuing an order in this case.

It is, therefore, ORDERED, that the hearing previously held be continued and recommenced on January 27, 2021 at 10:00 a.m. at the offices of the Medical Licensure Commission of Alabama, 848 Washington Avenue, Montgomery, Alabama for the purpose of allowing further testimony and evidence. Any party wishing to appear by video technology shall contact the Commission office for direction.

Done this 4th day of January, 2021.



GEORGE C. SMITH, SR., M.D.
Chairman, Medical Licensure Commission
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BEFORE THE MEDICAL LICENSURE
COMMISSION OF ALABAMA

CASE NO. 20-145

ORDER SETTING HEARING

The Medical Licensure Commission has received the verified Administrative Complaint of the State Board of Medical Examiners filed in this cause. The Commission has determined that this matter is due to be set down for hearing under the provisions of §34-24-361, Code of Alabama 1975.

Accordingly, it is the Order of the Commission that this matter be set for hearing before the Commission on the 28th day of October, 2020 at 10:00 o'clock in the a.m. at the offices of the Medical Licensure Commission, 848 Washington Avenue, Montgomery, Alabama. The Respondent, KATHLEEN A. CULLEN, M.D., is directed to respond to the allegations of the verified Complaint in the manner prescribed in Rule 545-X-3-.03 of the Rules and Regulations of the Medical Licensure Commission. Such answer shall be filed **within 20 days** of service of a copy of the Administrative Complaint and the Order Setting Hearing.

This hearing shall be conducted in accordance with §34-24-361(e), Code of Alabama 1975 and Chapter 3 of the Rules and Regulations of the Medical Licensure Commission concerning hearings in contested cases. The Respondent is entitled to be present at the hearing

and to be represented by counsel, is entitled to cross examine witnesses presented by the Complainant, and is entitled to present testimony and other evidence touching on the allegations contained in the Complaint.

Wallace D. Mills, Esq., is hereby appointed to act as legal counsel for the Commission under the authority of Rule 545-X-3-.08 of the Rules and Regulations of the Medical Licensure Commission.

It is the further order of the Commission that a copy of the verified Complaint of the Alabama State Board of Medical Examiners and a copy of this Order Setting Hearing is forthwith served upon the said KATHLEEN A. CULLEN, M.D., by personally delivering the same to her if she can be found within the State of Alabama or by overnight courier, signature required, to her last known address if she cannot be found within the State of Alabama. The Commission further directs that personal service of process shall be made by FedEx/Karen Silas who is designated as the duly authorized agent of the Medical Licensure Commission.

The Complainant and Respondent are directed to comply strictly with the Commission's Standing Order and Scheduling Order, which are attached hereto.

It is further ordered that the parties and their attorneys immediately check their calendars for scheduling conflicts. **No requests for continuances based upon schedule conflicts of attorneys or parties will be considered unless such request is made forty-five (45) days prior to the scheduled hearing date.**

ORDERED at Montgomery, Alabama, this 24th day of June, 2020.



GEORGE C. SMITH, SR, M.D., Chairman
Medical Licensure Commission of Alabama