



NORTH CAROLINA
MEDICAL BOARD

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Via Facsimile and U.S. Mail

February 14, 2007

Dear Dr. XXXXX,

It has come to the Board's attention that you are a treating physician for patient XXXXXXX. It has further come to the Board's attention that you feel that a proper course of treatment is needed for XXXXXX and that you feel that you are unable to provide that course of treatment due to restrictions placed on Dr. XXXXXX. Please allow me to address this last point

The restrictions imposed against Dr. XXXXX by the Board pertain to Dr. XXXXX specifically and only. Those restrictions are not intended to serve as a "prior restraint" as to other physicians. In particular, the Board's Order should not be read to prevent a physician, when confronted with a unique medical case, from prescribing a course of treatment that he or she believes is medically indicated and has a good faith belief to be within the standard of care for that particular patient. Dr. XXXXX restrictions were the result of his treatment of Lyme Disease from a more global perspective, and those restrictions on him are specific to his practice given the evidence introduced at his hearing. Dr. XXXXXX Order would not be used as evidence against another physician unless that physician was practicing in a manner and on a scale similar to Dr. XXXXX. In other words, it would not be used against physicians practicing in a good faith manner when confronted with a patient with an unusual medical condition. The Board would look at the specific medical evidence in the individual case, if brought to its attention, to determine whether the physician was practicing within the standard of care.

Moreover, any physician may consult with Dr. XXXXX on matters that pertain to a particular patient's course of treatment. Dr. XXXXX Order does not prohibit Dr. XXXXX from consulting with other physicians or vice-versa. Of course, you also may consult with other infectious disease specialists, and make appropriate referrals, and when doing so, please feel free to share this letter with them.

R. David Henderson
Executive Director

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XXXXXXXXXX, MD

February 14, 2007

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I hope this letter will help clear up any confusion on how the Order in Dr. XXXXX case should be interpreted in regard to other physicians, and I further hope that this letter will help facilitate the medical decision-making that you feel is in the best interest of your patients without worry about how the Medical Board may view those decisions because of its dealings with Dr. XXXXX.

Should you have any questions, please do not hesitate to call me anytime.

Sincerely,



Marcus Jimison
Board Attorney

pc: Brian Hayes, Esq.

James Wilson, Esq.

February 14 2007

Marcus Jimison. Esq
North Carolina Medical Board

By FAX: 919-XXXXXXX

Dear Mr. Jimison,

I just received your FAX of today's date regarding XXXXXX. As you have not spoken to me personally, I feel I should clarify your understanding on one point.

I am not an infectious disease specialist. My practice does not include the treatment of presumed or proven infectious disease involving the central nervous system, and I would not undertake to order this treatment even with the close consultative assistance of an experienced infectious disease Specialist.

, The restraining order against Dr. XXXXXX has no effect on my care for XXXXXXXX.

Although I appreciate receiving it, your letter of February 14 will have no foreseeable effect on my care for the child, which is dedicated to preservation of her vision through serial diagnostic assessment of changes in her optic nerve function in response to therapies ordered and supervised by other appropriate sub-specialist physicians. '

Please feel free to contact me directly if you wish to discuss this matter. My cell phone number is XXXXXXXX.

Sincerely,

February 15 2007

Marcus Jimison, Esq
North Carolina Medical Board

By FAX: 

Dear Mr. Jimison,

I apologize for the curious interruption to our telephone conversation of earlier today.

In complex matters it is often helpful if all parties put their thoughts in writing. After reflecting on our conversation, I have the following comments:

- Regarding your suggestion that I refer XXXXXXX to another Infectious Disease specialist

In the care of XXXXXXX, I am a consulting physician. It is not my place to attempt to supplant XXXXX primary treating physician (in this case Dr. XXXXXX) with another physician of the same specialty (in this case Infectious Disease), especially as Mrs. XXXXX continues to express faith and confidence in Dr. XXXXX and desires that he order and supervise her daughter's antibiotic treatment. Such a referral would be professionally inappropriate and could - under ordinary circumstances - be grounds for a grievance complaint.

- Regarding your suggestion that I could order XXXXX antibiotic therapy myself since I think it is needed"

I am a pediatric ophthalmologist. Sub-specialization exists to provide the most knowledgeable and sophisticated care to patients with rare or difficult conditions. If all physicians could equally well do all things, there would be no need for advanced training. Merely believing that a certain treatment would be beneficial to a patient does not qualify a physician to order or provide it.

- Regarding your suggestion that I could order XXXXXX antibiotic therapy under the guidance of an Infectious Disease specialist

As I emphasized during our brief conversation, whether or not I am "following instructions" from another doctor, if I am the signatory to prescription or Infusion orders I consider myself responsible for understanding and appropriately monitoring treatment. I doubt that the North Carolina Medical Board would accept "I was doing what he told me to do" as a carte-blanche excuse for my own lack of knowledge, should complications arise. In the case of complex therapy with substantial attendant risks, such intermediary arrangements are reasonable and acceptable only when geographic separation places the patient impractically far from the specialist, which is not the situation in this case.

I hope the above clarifies my professional position in this unusual situation. We briefly touched upon the restraining order against Dr. XXXXX and let me close by stating again that this order has no effect on my treatment of XXXXX or my willingness to continue as her ophthalmologist.

If there is anything else the Board wishes me to know, please convey it in writing via FAX.

Sincerely,