

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

**STATE OF WASHINGTON
WASHINGTON MEDICAL COMMISSION**

In the Matter of the License to Practice as a
Physician and Surgeon of:

No. M2022-204

RICHARD J. EGGLESTON, MD
License No. MD.MD.00014109

MOTION TO DISMISS

Respondent

COMES NOW the Respondent, RICHARD J. EGGLESTON, MD, by and through his attorney
of record, Todd S. Richardson, of the Law Offices of Todd S. Richardson, PLLC, and pursuant
to the Scheduling Order entered herein and pursuant to WAC 246-11-380 hereby moves this
Court for an Order DISMISSING the Statement of Charges with prejudice, as follows:

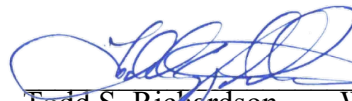
- 1) As a matter of law, the allegations contained in the Statement of Charges, are
insufficient to support the cause of action. Without a sufficient factual basis, the
charges must be dismissed.

This motion is supported by the Statement of Charges, the investigative file, and the ruling
denying TRO by Judge Rice of the Eastern District of Washington, and by the following
Memorandum of Facts and Law.

MOTION TO DISMISS

TODD S. RICHARDSON
Law Offices of Todd S Richardson, PLLC
604 Sixth Street
Clarkston, WA 99403
509/758-3397, phone
509/758-3399, fax

1 DATED this 22 day of March, 2023.

2
3
4 
5 Todd S. Richardson WSBA 30237
6 Attorney for Respondent

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
MEMORANDUM OF FACTS AND LAW

I. UNDISPUTED FACTS

Dr. Richard Eggleston is a retired board-certified ophthalmologist¹. He was issued a license to practice on September 16, 1974; and his license status is currently “retired active-in-state volunteering.” He has been retired for approximately a decade². He has formerly sat as a member of the Washington Medical Commission.

Dr. Eggleston was hired by the Lewiston Morning Tribune (with a 2017 circulation of approximately 25,000 papers in north-central Idaho and southeastern Washington³) to write guest opinion/editorials; something that he has done at all times relevant hereto and continuing on to the present⁴. Each opinion article included a picture of Dr. Eggleston under the headline and over the caption (in all caps) “COMMENTARY: OPINION OF” followed by his name in **bold: “Richard Eggleston”**⁵. The attribution came at the end of each opinion: “Eggleston, M.D., is a retired ophthalmologist. [sic]” which was followed either by his email address or a statement that he lives

¹ Statement of Charges (hereinafter “SOC”) at 1.1.

² *Id.*

³ https://en.wikipedia.org/wiki/Lewiston_Morning_Tribune

⁴ SOC at 1.3

⁵ Investigation File. *See i.e.:* Attachment A. *See also:* Answer to Statement of Charges, at 1.3 - 1.4.

MOTION TO DISMISS

1 in Clarkston⁶.

2 Dr. Eggleston, in writing these opinions to become part of the public debate, used phrases that
3 further identified that he was expressing his opinion. He used statements such as: “I believe that
4 ...”⁷, and “[m]y previous opinions stated ...”⁸.

5 At no time did Dr. Eggleston use his opinion article to treat, diagnose, or provide care for *any*
6 patient. In fact, *every* statement complained of by the Commission is a statement of opinion and
7 *NONE* were used for treating even a single patient⁹. Each and every statement complained of by the
8 Commission was written by Dr. Eggleston in his private capacity¹⁰ and published in an effort to
9 further public debate and offer alternative thoughts and information. There is no act or statement
10 alleged by the Commission that relates to the practice of medicine or conduct of medical business
11 by Dr. Eggleston¹¹, or even broadly thereto. Dr. Eggleston was engaging in classic “soap box”
12 speech in a public forum. Such content based restriction on speech as the Commission is advocating
13 through this action is a violation of the First Amendment and Art.1 Sec. 5 of the Washington State
14 Constitution¹². *See i.e.: State v Dawley*, 11 Wn.App. 527, 455 P.3d 205 (Div.1, 2019); *State v*
15 *Immelt*, 173 Wn.2d 1, 267 P.3d 305, (Wash. 2011). The Commission bears the burden of justifying
16 their restriction on speech. *Dawley*, at 535. *See also: Ino Ino v City of Bellvue*, 132 Wn.2d 103, 937
17

18 ⁶ *Id.*

19 ⁷ SOC at 1.16

20 ⁸ SOC at 1.18

21 ⁹ SOC, pp. 1-9.

22 ¹⁰ *Id.*

23 ¹¹ *Id.*

24 ¹² Article I, § 5 provides that “[e]very person may freely speak, write and publish on all
25 subjects, being responsible for the abuse of that right.”
26

MOTION TO DISMISS

TODD S. RICHARDSON
Law Offices of Todd S Richardson, PLLC
604 Sixth Street
Clarkston, WA 99403
509/758-3397, phone
509/758-3399, fax

1 P.2d 154 (Wash. 1997); *Collier v. City of Tacoma*, 121 Wash.2d 737, 753, 854 P.2d 1046 (1993);
2 *Spokane Arcades, Inc. v. Brockett*, 631 F.2d 135, 138 (9th Cir.1980), *aff'd*, 454 U.S. 1022, 102 S.Ct.
3 557, 70 L.Ed.2d 468 (1981). Courts (and the Respondent respectfully submits that this term applies
4 to administrative courts as well as it does District and Superior Courts), must first consider whether
5 this is a matter of protected speech. *Id.*, at 535.

6 The protections around speech are foundational to our society, and they must remain. The
7 government may not choose to punish someone on the illusory claim that “on appeal the injured
8 party may correct the error”; but such a position seems to be the position adopted by the
9 Commission. Such a position suggests that later vindication somehow removes the immediate harm,
10 but the injured party would have to labor under the penalty and bear the burden of the harm until that
11 vindication comes. Oft it is figuratively asked the question of a judge, “where in these Courts and
12 these halls of power do I go to have my reputation and good name restored? How do I regain all that
13 I lost in the past months or years?” A position such as the one the Commission seems to espouse
14 leaves that question forever unanswered, and the wrongfully punished person forever lacking that
15 which was taken. While it is true that offending parties may pay substantial damages, they could
16 never restore what they took: reputation and time. Thus, Washington law requires that Courts
17 address the constitutional question of that protected speech as a “threshold” matter.

18 It is a settled matter of law that “the concept of free speech is interpreted more broadly under
19 the state constitution than under the federal constitution.” *Ino Ino*, at 115; although the Court therein
20 also noted that “greater protection under the state constitution is not warranted in every context.”,
21 at 119-120. *See also: State v. Reece*, 110 Wash.2d 766, 778, 757 P.2d 947 (1988), *cert. denied*, 493
22 U.S. 812, 110 S.Ct. 59, 107 L.Ed.2d 26 (1989).

23 The Commission claims that Dr. Eggleston’s opinion pieces in the local newspaper qualify as
24
25
26

MOTION TO DISMISS

violation of RCW 18.130.180 (1), (13), and (22). Assuming *arguendo*¹³ that each act alleged against Dr. Eggleston by the Commission were true, they do not meet the legal requirements¹⁴ to support the charges, as follows¹⁵.

Washington Courts have established that the “goal of the Uniform Disciplinary Act, of which RCW 18.130.180 is a part, it to protect the public from the hazards of health care professional incompetence and misconduct.” *Nguyen v State, Dept of Health Med. Qual. Assur. Comm’n*, 144 Wn.2d 516, 29 P.3d 689 (Wash. 2001); *Heinmiller v Dept of Health*, 127 Wn.2d 595, 602-3, 903 P.2d 433 (Wash. 1995).

RCW 18.130.180(1)

Section 18.130.180(1) reads, in relevant part as follows (the portion not cited deals with a criminal conviction; Dr. Eggleston has no criminal conviction in fact or in allegation):

(1) The commission of any act involving moral turpitude, dishonesty, or corruption relating to the practice of the person's profession, whether the act constitutes a crime or not. If the act constitutes a crime, conviction in a criminal proceeding is not a condition

¹³ And specifically reserving for argument relating to the First Amendment to be presented *infra* ...

¹⁴ “The standard of proof in a medical disciplinary proceeding is that findings of fact must be proved by clear and convincing evidence. *Nguyen v Dep’t of Health, Med. Quality Assur. Comm’n*, 144 Wash.2d 516, 529, 29 P.3d 689 (2001).” *Hung Dang v Washington State Dept of Health, Med. Quality Assur. Comm’n*, 10 Wn.App.2d 650, 664, 450 P.3d 1189 (Div. 1, 2019).

¹⁵ The allegations of the Commission are adopted for purposes of this motion only. Further, in favor of brevity, the allegations from the Statement of Charges will not be set forth at length here, but they can be specifically located at the following paragraphs of the SOC: 1.1, 1.3, 1.4, 1.5, 1.6, 1.8, 1.10, 1.12, 1.13, 1.16, 1.17, 1.18, 1.23, 1.25. ONLY the allegations of the Respondent’s statements/actions are adopted for this motion; the Commission’s claims of what each statement may “suggest” is irrelevant and argumentative. The test before us is whether the Respondent’s actions violated the law. Whether the Respondent’s statements offended the sensibilities of the investigator, or executive director is of no consequence to this legal inquiry.

MOTION TO DISMISS

TODD S. RICHARDSON
Law Offices of Todd S Richardson, PLLC
604 Sixth Street
Clarkston, WA 99403
509/758-3397, phone
509/758-3399, fax

precedent to disciplinary action.

Thus, the relevant inquiry is whether the allegations support a finding of the commission of an act involving 1) moral turpitude, 2) dishonesty, or 3) corruption relating to the practice of the person's profession.

To be able to apply this statute, we must properly understand these three terms. It is notable that the three terms are linked together in the statute, and in application. Though they have been separated for definition in this memorandum, proper statutory interpretation links them, not only together but also with "relating to the practice of the person's profession." The three terms are similar and serve to clarify one another.

I. Moral Turpitude.

Black's Law Dictionary defines "moral turpitude" as follows:

The act of baseness, vileness, or the depravity in private and social duties which man owes to his fellow man, or to society in general, contrary to accepted and customary rule of right and duty between man and man. [citation omitted.] Act or behavior that gravely violates moral sentiment or accepted moral standards of community and is a morally culpable quality held to be present in some criminal offenses as distinguished from others. [citation omitted.] The quality of a crime involving grave infringement of the moral sentiment of the community as distinguished from statutory mala prohibita. [citation omitted.]

Black's Law Dictionary, 6 Ed (1990).

Thus we begin informing our understanding with terms such as: base, vile, depravity, grave violation, and *malum in se*. To this we add the clarity of our courts.

One recent case that offers important insight is the case of *Hung Dang v Wa. State Dept of Health, Med. Qual Assurance Comm'n*, 10 Wn.App.2d 650, 450 P.3d 1189 (Div.1, 2019). The Court therein stated:

The court concluded violation of a criminal statute does not necessarily constitute an act of moral turpitude. *Farina*, 94 Wash. App. at 460-61, 972 P.2d 531. Conduct that meets the definition of "moral turpitude" is an act of "inherent immorality." *Farina*, 94 Wash. App. at 460-61, 972 P.2d 531.

Hung Dang, at 666.

MOTION TO DISMISS

1 In the case of *Haley v Medical Disciplinary Bd*, 117 Wn.2d 720, 818 P.2d 1062 (Wash. 1991),
2 our Supreme Court considered the case of Dr. Theodore R. Haley, M.D.. In that case, Dr. Haley was
3 sanctioned for a sexual relationship with a former teenage patient. Dr. Haley was a 66 year old
4 general surgeon who performed a splenectomy on a young female car wreck victim; it occurred 2
5 days before her 16th birthday. He and the young girl engaged in a sexual relationship that resulted
6 in a complaint and discipline against Dr. Haley.

7 Dr. Haley appealed the discipline alleging (among other things) that it was not the type of
8 unprofessional conduct precluded by RCW 18.130.180(1).

9 The Supreme Court found that “psychological aspects of the doctor-patient relationship may
10 continue to exist after medical treatment has ended, and that [the teenaged female patient] was
11 probably influenced by Dr. Haley’s status as her former surgeon. ... [W]e agree Dr. Haley abused his
12 professional status in violation of 18.130.180(1).” *Haley* at 730.

13 In explaining their ruling, the justices stated, “To serve as grounds for professional discipline
14 under RCW 18.130.180(1), conduct must be “related to” the practice of the profession. We construe
15 the “related to” requirement as meaning that the conduct must indicate unfitness to bear the
16 responsibilities of, and to enjoy the privileges of, the profession.” *Id* at 731.

17 The Court further explained that there must be a “required relationship between the improper
18 conduct and the practice of the profession.” *Id*. In expounding on what that means, the Court cited
19 *In re Kindschi*, 52 Wn.2d 8, 319 P.2d 824 (1958):

20 The public has a right to expect the highest degree of trustworthiness of the members of
21 the medical profession. We believe there is a rational connection between income tax
22 fraud and one's fitness of character or trustworthiness to practice medicine, so that the
legislature can properly make fraudulent conduct in such instances a ground for revoking
or suspending the license of a doctor.

23 *Id*. At 11.

24 The *Haley* court then listed an additional example of “moral turpitude” as they cited to
25 *Standow v Spokane*, 88 Wn.2d 624, 564 P.2d 1145 (1977) where in a conviction for larceny and
26 burglary were held to be “moral turpitude” sufficient for denying a taxicab license. In an

MOTION TO DISMISS

1 unpublished case, *Olson v State Dept of Health, Med. Qual. Assur. Comm'n*, 179 Wn.App.1035
2 (2014), an anesthesiologist was suspended for sexual misconduct when he touched the breasts of
3 patients during surgical procedures. One other case (also unpublished): *Jasso v Dept of Health*, 152
4 Wn.App. 1021 (Div.2, 2010), doctor sexually abused his daughter, constituted moral turpitude.

5 Thus we see that sexual relations with a teenaged former patient (who was some 50 years
6 junior to the doctor), tax fraud, larceny and burglary are they types of offenses that qualify for “moral
7 turpitude.” Applying the rule of *ejusdem generis* (“of the same kind or class”) we find that courts
8 continue to hew true to that understanding with which we began. Moral turpitude can only be
9 serious, grievous, immoral, or despicable offenses.

10 In applying this to Dr. Eggleston we can only find the Commission is well off the mark. The
11 allegations against him are, in simple terms, that the Commission disagrees with his opinion, or that
12 they claim his opinion is wrong. There is not a single allegation that he *lied*¹⁶ or even that he
13 misquoted any of his informative sources. The Commission’s *only* argument in this regard is that
14 they disagree with him: they seek to pillory him for espousing an unpopular opinion. And that is a
15 direct violation of the first of the Bill of Rights: our *right* to freedom of speech. Dr. Eggleston’s
16 expression of his opinion is expressly NOT a violation of Washington code.

17 The 9th Circuit Court of Appeals has instructed us, “[i]n the marketplace of ideas, few
18 questions are more deserving of free-speech protection than whether regulations affecting health and
19 welfare are sound public policy.” *Conant v Walters*, 309 F.3d 629, 634 (9th Cir. 2002). Moreover,
20 the United States Supreme Court has “stressed the danger of content-based regulations in the fields
21 of medicine and public health, where information can save lives.” *Nat’l Inst. of Family & Life*

22
23 ¹⁶ While loose words in the SOC accuse Dr. Eggleston of “false statements”, they do not,
24 and cannot, attribute intentional lies. EVEN IF the Commission were to presume (without
25 support) that the claimed “false statements” were intentional lies; such would still not meet the
26 standard of “moral turpitude”. But when read for what they ARE (statements of opinion and
citations to sources that informed that opinion); the allegations fail to even rise to the level of a
molehill, much less the mountain.

MOTION TO DISMISS

1 *Advocates v Becerra*, 138 S.Ct. 2361, 2374 (2018).

2 The Statement of Charges demonstrate that the Commission is seeking to punish a physician
3 who offered public opinions that are different from the Commission's favored opinions. This "on
4 its face burdens disfavored speech by disfavored speakers." *Sorrell v IMS Health Inc*, 564 U.S. 552,
5 564 (2011). "If there is a bedrock principle underlying the First Amendment, it is that the
6 government may not prohibit the expression of an idea simply because society finds the idea itself
7 offensive or disagreeable." *Texas v Johnson*, 491 US 397, 414 (1989).

8 The question before us is fairly resolved by application of the guidance from the U.S. Supreme
9 Court in *Bd. of Regents of Univ. Of Wis. Sys. v. Southworth*, 529 U.S. 217 (2000): "minority views
10 are treated with the same respect as are majority views." *Id*, at 235.

11
12 2. *Dishonesty.*

13 Black's Law Dictionary defines dishonesty as:

14 Disposition to lie, cheat, deceive, or defraud; untrustworthiness; lack of integrity. Lack
15 of honesty, probity or integrity in principle; lack of fairness and straightforwardness;
disposition to defraud, deceive or betray. [citation omitted.]

16 *Black's Law Dictionary*, 6th Ed., 1990.

17 Thus we begin with the understanding that this term refers to a disposition, something that runs
18 deep in the offender's character. To this we, again, add the insight and instruction that Washington
19 Courts have provided.

20 The *Haley* Court cited to cases from other states, including one from California and one from
21 New York¹⁷ which add further light to this definition. The California case, *Windham v Board of*
22 *Med. Quality Assur.*, 104 Cal.App.3d 461, 163 Cal.Rptr. 566 (1980) dealt with a doctor who

24 ¹⁷ These cases were specifically cited for the proposition that other "jurisdictions also
25 adhere to the principle that conduct may subject a physician to professional discipline without
26 that conduct being narrowly related to the technical competence to practice medicine." *Haley*, at
734.

MOTION TO DISMISS

1 committed tax fraud. The California court is quoted as stating that it is difficult “to
2 compartmentalize dishonesty in such a way that a person who is willing to cheat his government out
3 of \$65,000 in taxes may yet be considered honest in dealings with his patients.” *Haley*, at 734, citing
4 to *Windham*, at 470, 163 Cal.Rptr 566.

5 The New York case, *Erdman v Board of Regents of Univ. of State of N.Y.*, 24 A.D.2d 698, 261,
6 N.Y.S.2d 634 (1965), dealt with a doctor who was convicted of conspiring to influence a judge
7 improperly.

8 Another Washington case, *Jimenez v Wa. State Dept of Health*, 9 Wn.App.2d 1089 (2019),
9 dealt with a case in which Ms. Jimenez held herself out as a naturopathic doctor when she was not.

10 Thus we see that the type and substance of dishonesty to subject one to disciplinary sanction
11 is a flagrant and intentional disposition to deceive. It is worth noting that of the reported cases in
12 Washington, the undersigned was only able to find the few cited that dealt with this issue.

13 14 3. Corruption.

15 Black’s Law Dictionary defines this term as

16 An act done with an intent to give some advantage inconsistent with official duty and the
17 rights of others. The act of an official or fiduciary person who unlawfully and wrongfully
18 uses his station or character to procure some benefit for himself or for another person,
contrary to duty and the rights of others. *See* Bribe; Extortion.

19 *Black’s Law Dictionary*, 6th Ed., 1990.

20 Unfortunately, the undersigned could not find any reported case in Washington that applied
21 the term “corruption”, as used in this statute, independent of the other two terms. It therefore
22 reemphasizes the fact that the three terms are meant to build on, modify, and inform the others.

23 Application.

24 Dr. Eggleston offered his opinions, and some of the basis for them, to the public debate. His
25 opinions are not the opinions the Commission has endorsed. For committing this “thoughtcrime”
26

MOTION TO DISMISS

1 the Commission now seeks to take his medical license.

2 Even if Dr. Eggleston engaged in the specific actions the Commission has alleged he engaged
3 in; it does not meet the requirements of RCW 18.130.180(1). Voicing his opinion, regardless of its
4 popularity and regardless of whether there are or may be opposing opinions, is not an act of moral
5 turpitude, dishonesty or corruption relating to the practice of his profession.

6 The allegations simply do not meet the standard. Therefore, the charges must be dismissed.
7
8

9 RCW 18.130.180(13)

10 To be found guilty of this subsection, a licensee must commit “misrepresentation or fraud in
11 any aspect of the conduct of the business or profession.”

12 A misrepresentation is a statement made to deceive or mislead. (*Black’s Law Dictionary*.)

13 Fraud is a special species of misrepresentation, and the laws of pleading demand that fraud be
14 “pleaded with particularity.” It has nine essential element to this violation: 1) a representation of an
15 existing fact, 2) its materiality, 3) its falsity, 4) the speaker’s knowledge of its falsity, 5) the speakers
16 intent that it be acted upon by the person to whom the representation is addressed, 7) the latter’s
17 reliance on the truth of the representation, 8) the right to rely upon it, and 9) consequent damages.
18 *See: Frontier Bank v Bingo Investments, LLC*, 191 Wn. App. 43, 361 P.3d 230 (Div. 1, 2015).

19 This subsection was the basis for the sanctioning of Emilie Johnson when she, a massage
20 therapist, submitted a report designed to look like a chemical dependency treatment report. It was
21 found that her misrepresentation was intended to convince a judge of something that was not true.
22 This misrepresentation was determined to be a violation of 18.130.180(13). *Johnson v Washington*
23 *State Dept. Of Health*, 133 Wn.App. 403, 136 P.3d 760 (Div. 1, 2006).

24 The only cases the undersigned was able to find that applied any kind of “fraud” standard was
25 for professionals convicted of tax fraud (which *is* a species of fraud).
26

MOTION TO DISMISS

1 *Application.*

2 Dr. Eggleston stated the truth about his opinions. He accurately quoted from publications and
3 studies that he found to be persuasive and informative and which helped form his opinions.
4 Unfortunately, the Commission disagrees with the opinions of Dr. Eggleston. The Commission
5 points to some studies which support their opinion. It is true that there are published studies
6 (anecdotal and peer reviewed) which support differing, competing opinions on the topics about
7 which Dr. Eggleston opined.

8 It is not misleading nor fraudulent for a person, a retired doctor, to read and form an opinion
9 and express it. Even when the Commission insists it is WrongThink, it remains that person's
10 opinion and they are entitled to express it.

11 Expression of one's opinions do *not* violate 18.130.180(13). The Commission's charges fail
12 and the case must be dismissed.

13
14 RCW 18.130.180(22).

15 In a rather bizzarre twist, in paragraph 2.1, the Commission accuses Dr. Eggleston of
16 (22) Interference with an investigation or disciplinary proceeding by willful
17 misrepresentation of facts before the disciplining authority or its authorized
18 representative, or by the use of threats or harassment against any patient or witness to
19 prevent them from providing evidence in a disciplinary proceeding or any other legal
action, or by the use of financial inducements to any patient or witness to prevent or
attempt to prevent him or her from providing evidence in a disciplinary proceeding.

RCW 18.130.180(22)

20 The Statement of Charges is utterly without allegation that supports such a charge¹⁸. It is a
21

22
23 ¹⁸ It is assumed that the Commission will rely on the heavily editorialized and out of
24 context statements set out in 1.23 and 1.25. *Even if* these allegations were accurate, a physician
25 espousing an unpopular opinion to an investigator as part of his defense to charges does not meet
26 the requirements of subsection 18.130.180(22). The subsection requires a material
misrepresentation of a justiciable fact in an attempt to mislead the Commission. The undersigned
can find no reported case in which the Commission has previously attempted to sanction a

MOTION TO DISMISS

TODD S. RICHARDSON
Law Offices of Todd S Richardson, PLLC
604 Sixth Street
Clarkston, WA 99403
509/758-3397, phone
509/758-3399, fax

1 specious attack, and a baseless charge. For such a charge to appear in this SOC suggests that it is
2 just an artifact from some prior pleading that was carelessly left in the SOC that was filed in this
3 case.

4 There are no facts alleged or in existence to suggest that Dr. Eggleston interfered “with an
5 investigation or disciplinary proceeding by willful misrepresentation of facts before the disciplining
6 authority.” In the same vein, no facts or claims exist to suggest that Dr. Eggleston used “threats or
7 harassment against any patient or witness to prevent them from providing evidence”

8 It is a fools-errand to suggest that Dr. Eggleston violated this subsection.

9 Dr. Eggleston has cooperated with the investigation that lead to these charges. Dr. Eggleston
10 has not made any misrepresentation to the Commission. The investigator may disagree with Dr.
11 Eggleston; but that is of no moment. The Commission may disagree with Dr. Eggleston’s opinions;
12 but, again, their disagreement is inconsequential. And their disagreement should be given *no weight*
13 herein.

14 That is one of the important things about America, we *do* have freedom of thought and speech.
15 In Washington our right to freedom of speech and thought is protected not only through the national
16 Constitution, but also through our State Constitution. These rights are recognized and enshrined in
17 these documents, the very documents which give life to government, the very government which
18 gives life to this Commission.

19 The Commission may disagree with the opinions, publicly expressed, by Dr. Eggleston. But
20 “wrongthink” is not a crime. Even if we were to assume that Dr. Eggleston’s opinions are wrong,
21 it is not a basis for the charges levied against him; for each subsection used to charge him requires
22

23 _____
24 physician for having an opinion and standing by it to the investigator. It is further without
25 precedent for the Commission to claim that a physician violated this subsection by making
26 statements in his defense to the investigator. The undersigned submits it is without precedent
precisely because the Commission is fully aware of the meaning and intent of this subsection and
that they do not have a case herein.

MOTION TO DISMISS

1 ill-intent, the desire and intent to deceive, etc. As has been shown, each subsection used to charge
2 him, requires much more than publishing one's opinion.

3 The Commission does not support their charges, as they must. Therefore, the charges must be
4 dismissed.

6 CONCLUSION

7 Dr. Richard Eggleston has served his community for many years. Now, in his retirement, a
8 local newspaper recognized him and offered him an opportunity to give voice to his opinions, to spur
9 the public debate, and to offer thoughts, information, and insight for consideration. His periodic
10 opinion articles do just that. They were protected expressions of speech.

11 Dr. Eggleston, in writing these opinion pieces, does not offer medical advice, does not
12 prescribe medicine (except the extent that causing one to think and learn is medicine), does not treat
13 any patients. He doesn't issue a call to action; he *only* offers alternative information and opinion.
14 He stays true to the inquisitive nature that lead him to medicine in the first place. His opinion
15 articles offer a second opinion to the daily dose of commentary and news.

16 Now, the Commission has inserted themselves into the debate and determined that their
17 opinion must be followed. It is contrary to medical science and reason to demand that only one
18 opinion may be offered; especially in light of conflicting evidence.

19 But that's the thing: the medical profession isn't about finding a second opinion that
20 necessarily agrees with the first. The second opinion is intended to offer new or additional thoughts,
21 information, and insight; just the way Dr. Eggleston does with his opinion. Afterall, an informed
22 patient is a wiser patient and makes better decisions.

23 Dr. Eggleston did not violate Washington Code by publishing his opinions. That much is clear,
24 as a matter of law.

25 We understand the Commission's opinion on the matter; and you know what they say about
26 opinions

MOTION TO DISMISS

1
2
3
4 The fact is, these charges must be dismissed.

5
6 Respectfully submitted this 22 day of March, 2023.

7
8 
9 Todd S. Richardson WSBA 30237
Attorney for Respondent

10
11
12
13
14
15 **Declaration of Service**

16 I HEREBY certify that on the 22nd day of March, 2023, I served a true and correct copy of this
17 document via Electronic mail per e-Service Agreement, upon the following:

18 Kristin G Brewer
19 Office of the Attorney General
Attorneys for the Commission

20 Kristin.brewer@atg.wa.gov
21 Deana.sullivan@atg.wa.gov
22 Robin.brown@atg.wa.gov

23 
24 Todd S. Richardson

25
26
MOTION TO DISMISS