

**COURT OF APPEALS, DIVISION III  
OF THE STATE OF WASHINGTON**

RICHARD J. EGGLESTON,  
M.D.,

Petitioner,

v.

WASHINGTON MEDICAL  
COMMISSION,

Respondent.

DECLARATION OF  
KRISTIN G.  
BREWER IN  
SUPPORT OF  
MEMORANDUM IN  
OPPOSITION TO  
PETITIONER'S  
EMERGENCY  
MOTION FOR  
INJUNCTION  
PURSUANT TO  
RAP 8.3

I, KRISTIN G. BREWER, hereby declare as follows:

1. I am over the age of 18, and competent to testify.

I am an assistant attorney general, senior counsel, representing the Washington Medical Commission in the administrative action regarding Richard J. Eggleston, MD. I have been given a copy of the investigative file of the Commission for this case and can verify that the information provided herein is true and accurate.

2. The Washington Medical Commission received a Complaint in September of 2021 regarding Dr. Eggleston. The Commission notified Dr. Eggleston of the Complaint on October 5, 2021. A Statement of Charges was authorized and served on Dr. Eggleston on August 4, 2022, notifying him of the charges against him. A true and correct copy of the Statement of Charges is attached hereto as Exhibit 1. After being granted an extension of time, Dr. Eggleston filed an Answer on October 9, 2022. A true and correct copy of the Answer is attached hereto as Exhibit 2. A scheduling call was held on November 15, 2022, and a schedule was established for the case with a three-day hearing set for May 24 – 26, 2023. A true and correct copy of the Scheduling Order/Notice of Hearing dated November 15, 2022, is attached hereto as Exhibit 3. A true and correct copy of an Order extending certain deadlines is attached as Exhibit 4.

3. On December 16, 2022, a Notice of Torts claim was served on Enterprise Services for Plaintiff Eggleston. On March 10, 2023, Dr. Eggleston and other plaintiffs filed a Motion

for a Temporary Restraining Order and A Motion to Expedite Hearing on that motion in the United States District Court, Eastern District of Washington. On March 17, 2023, the court issued an order granting an expedited hearing and denying the motion for TRO. A true and correct copy of that order is attached hereto as Exhibit 5.

4. The prehearing conference was held on April 28, 2023. In an oral ruling, the health law judge denied Dr. Eggleston's motion to dismiss and prehearing rulings were made as to each side's allowed witnesses and exhibits. A true and correct copy of the Conduct of Hearing order confirming by written order the oral ruling denying the motion to dismiss is attached as Exhibit 6. The case is ready to proceed to hearing in two days beginning May 24-26, 2023.

5. On May 8, 2023, Dr. Eggleston filed a declaratory judgment action and a motion to enjoin the Commission's hearing. The Asotin County Superior Court denied his motion for

preliminary injunction. A true and correct copy of this order is attached as Exhibit 7.

This document contains 529 words, excluding the parts of the document exempted from the word count by RAP 18.17.

Under penalty of perjury, I declare that the above is true and correct.

SIGNED in Olympia, Washington this 22nd day of May 2023.



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KRISTIN G. BREWER

# **EXHIBIT 1**

AUG 09 2022

STATE OF WASHINGTON  
WASHINGTON MEDICAL COMMISSION

GOVERNMENT COMPLIANCE  
& ENFORCEMENT

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

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

**No. M2022-204**

**STATEMENT OF CHARGES**

Respondent.

The Executive Director of the Washington Medical Commission (Commission) is authorized to make the allegations below, which are supported by the evidence contained in Commission file number 2021-10565.

**1. ALLEGED FACTS**

1.1 On September 16, 1974 the State of Washington issued Respondent a license to practice as a physician and surgeon. Respondent's license is currently retired active-in-state volunteering. Respondent is board-certified in ophthalmology.

1.2 Severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) is a coronavirus that causes COVID-19, an infectious respiratory disease that spreads mainly from person to person through respiratory droplets produced when an infected person coughs, sneezes, or talks. Adults 65 years and older and people of any age with underlying medical conditions are at higher risk for severe illness. On January 22, 2020, The Center for Disease Control and Prevention (CDC) identified the first reported U.S. case of coronavirus in Washington State. Since then, over one million people in the United States have reportedly died because of COVID-19.

1.3 Between approximately January 24, 2021, and November 28, 2021, Respondent wrote a periodic newspaper column for a regional newspaper that serves southeastern Washington and north central Idaho.

1.4 In each column, Respondent identified himself as a licensed physician by using "M.D." in the tagline included at the end of the column. Additionally, each column's tagline also included his email address which also identifies him as a physician.

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1.5 In multiple instances in those columns, Respondent made false statements regarding medical issues and promulgated misinformation regarding the SARS-CoV-2 virus and treatments for the virus.

**Statements minimizing the deaths from SARS-CoV-2**

1.6 On or about July 11, 2021, the regional newspaper published Respondent's column titled, "COVID-19 is a deception for taking control". In that column, Respondent wrote the following:

"The Centers for Disease Control and Prevention state that 94 percent of 591,265 supposed COVID-19 death had underlying causes. Therefore, 6 percent – or 35,475 – were actual COVID-19 deaths."

This statement suggests that deaths from Covid-19 infection are rare, and that the estimates of deaths provided by the CDC are grossly exaggerated. This statement is harmful to the public because it minimizes the mortal danger of Covid-19, and is especially dangerous because it attributes the death caused by SARS-CoV-2 infection to other conditions, suggesting that SARS-CoV-2 was only diagnosed accidentally during the evaluation and was not the cause of death.

1.7 As of May 17, 2021, the CDC reported there were 587,653 deaths from COVID -19 in the United States. Several conditions substantially increase the risk for death in people with SARS-CoV-2. These include diabetes, high blood pressure, chronic obstructive pulmonary disease, kidney disease, obesity, and immunosuppression. Additionally, being over 65 years old is an additional risk factor. Using these criteria, forty percent to fifty percent of the population in the United States has at least one risk factor that puts them at higher risk for a poor outcome.<sup>1</sup> This means that having an underlying condition, including being an older adult, is associated with increased risk for death from COVID-19. It does not mean these individuals died from their underlying disease and SARS-CoV-2 was incidentally found during their illness.

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<sup>1</sup> Ajufo E et al, US population at increased risk of severe illness from COVID-19, Am J Prev Cardiol 2021 Jun; 6:100156; Razzaghi H et al, Estimated county-level prevalence of selected underlying medical conditions associated with increased risk for severe COVID-19 illness, US, 2018, MMR July 24, 2020 / 69(29); 945-950.



## **Statement that polymerase chain reaction tests are inaccurate for SARS**

### **CoV-2 diagnosis**

1.8 On or about March 17, 2021, the regional newspaper published Respondent's column titled, "When it comes to COVID-19, dare to be a free thinker". In that column, Respondent wrote the following:

"The test most used to determine if a person is COVID-19 antibody positive is based on polymerase chain reaction [PCR]. Kory Mullis, the Nobel Prize winner for inventing the PCR, and Dr. Mike Yeaden, have stated that the PCR is not an appropriate tool for diagnosing COVID-19 infections, especially when done inaccurately, causing the PCR to '95 percent erroneous for COVID-19.'

Even the New York Times stated that the PCR is '79 percent false positive.'"

These statements claim that PCR assay is not an accurate diagnostic modality for Covid-19/SARS-CoV-2 infection. This statement is harmful to the public because it suggests that symptomatic persons should not test by PCR for Covid-19, and persons that test positive by PCR should not assume that they are contagious or need to seek care if unwell.

1.9 The PCR test for SARS-CoV-2 has been extensively been extensively evaluated and it has been shown to be accurate, even in different types of transport media and in a variety of samples.<sup>2</sup>

### **Statements that COVID-19 vaccines, and mRNA vaccines are harmful or ineffective**

1.10 In Respondent's previously cited July 11, 2021 column, Respondent wrote the following:

"In October 2019, [Bill] Gates sponsored the Vaccine Safety Net Workshop, a precursor to Immunization Agenda 2030, which will direct further mass injections with mRNA vaccines (biologics) altering our DNA by changing genes called P53 and BRAC1. [citation omitted]"

1.11 Genetic information normally flows from DNA to RNA to protein, so it is dubious to claim how a short piece of RNA could have an effect in reverse. If COVID RNA vaccines could make changes in human DNA, then presumably SARS-CoV-2

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<sup>2</sup> Perchetti et al, Validation of SARS-CoV-2 detection across multiple specimen types J Clin Virol 2020 Jul 128:104438; Wu X, Diagnostic techniques for COVID-19: a mini review J Virol Methods 2022 Mar; 301:114437.



RNA could also change human DNA and that claim has never been made or established.

There are RNA viruses that integrate into human DNA – although they don't change human DNA sequence – that are called retroviruses. Human immunodeficiency virus (HIV) is an example of a retrovirus. One of the steps in a retrovirus lifecycle is RNA being transcribed into DNA. The enzyme that is needed for that is called reverse transcriptase. HIV has a gene that codes for that enzyme. Coronaviruses do not have a reverse transcriptase so they cannot change their RNA into DNA.

1.12 In the same column, Respondent also wrote the following:

“As with the evil of Stockholm syndrome, signs of submission to COVID-19 fear include:

...

Taking vaccines that only provide short-term immunity and don't stop transmission of COVID-19, but at least 6,000 vaccine deaths have occurred.”

1.13 On September 5, 2021, the regional newspaper published Respondent's column titled, “Ivermectin is becoming the standard of care”. In that column, Respondent wrote the following:

“The SARS-Cov-1 and SARS-CoV-2 genomes are 80 percent similar, and 17 years after exposure to SARS-CoV-1, immunity still exists. This is because of long-lasting and specific cellular immunity by T-2 [sic] immune cells and bone marrow plasma cells, both not strengthened by booster jabs. And therefore, the booster can't help long-term immunity.”

1.14 Long-term immunity can be conferred both by T-cell immunity, in particular T memory cells, as well as long-lived plasma cells that produce antibodies. Boosters increase the memory component of the immune response as they tell the body that this is a foreign protein – whether vaccine- or virus-produced – that the body needs to be prepared to respond to repeatedly. Cells that denote long-term immunity have been identified in vaccinated people, even prior to receipt of booster doses.<sup>3</sup>

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<sup>3</sup> Geol RR et al, Distinct antibody and memory B cell responses in SARS-CoV-2 naïve and recovered individuals following mRNA vaccination. *Sci Immunol*. 2021 Apr 15;6(58):eabi6950. doi: 10.1126/sciimmunol.abi6950. (initially available as Goel RR et al Longitudinal Analysis Reveals Distinct Antibody and Memory B Cell Responses in SARS-CoV2 Naïve and Recovered Individuals Following mRNA Vaccination. *medRxiv*. 2021 Mar 6:2021.03.03.21252872. doi: 10.1101/2021.03.03.21252872.); Goel RR et al, mRNA vaccines induce durable immune memory to SARS-CoV-2 and variants of concern. *2021 Dec 3;374(6572):abm0829*. doi: 10.1126/science.abm0829. Epub 2021 Dec 3. (initially available as STATEMENT OF CHARGES PAGE 4 OF 9 NO. M2022-204

1.15 These statements claim that that SARS-CoV-2 vaccines 1) cause large number of injuries and deaths; 2) contain contaminants such as graphene; 3) can change human DNA, in particular in genes that are involved in cancer; 4) have been inadequately reviewed for safety by the FDA and other regulatory agencies; 5) result in increased risk for hospitalizations; 6) do not induce long term immunity. These statements are harmful to the public because they can create distrust and fear regarding vaccines that have been demonstrated to be safe and effective for the prevention of death and severe illness caused by COVID-19, as well as the reduction in the risk of acquiring SARS-CoV-2.

**Statements that ivermectin is safe and effective treatment for COVID-19**

1.16 In Respondent's previously cited March 17, 2021, column, Respondent wrote the following:

"I believe that soon, ivermectin, the inhaled steroid budesonide and others will be the standard of care for prevention of and treatment of SARSCov2 [sic] (COVID-19."

1.17 On or about June 9, 2021, the regional newspaper published Respondent's column titled, "Powers that be suppress the truth about COVID-19". In that column, Respondent wrote the following:

Ivermectin has four decades of safe use, with almost 4 billion doses for several medical conditions. It has been re-purposed for COVID-19 prophylaxis and treatment and is inexpensive.

...

Other [i]vermectin disinformation sources should be the most trusted. Medical journals, such as the [Journal of the American Medical Association], Lancet, Nature and Chest are supported by pharmaceutical ads. They all rejected the largest 600-patient prospective RCT from Egypt showing hospital rates with [i]vermectin of 1 percent vs. 22 percent standard of care and mortality rates of 2 percent vs. 22 percent, respectively."

1.18 In Respondent's previously cited September 5, 2021, column, Respondent wrote the following:

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Goel RR et al, mRNA Vaccination Induces Durable Immune Memory to SARS-CoV-2 with Continued Evolution to Variants of Concern. bioRxiv. 2021 Aug 23:2021.08.23.457229) ; Turner JS et al, SARS-CoV-2 mRNA vaccines induce persistent human germinal centre responses. Nature. 2021 Aug;596(7870):109-113.



“My previous opinions stated that ivermectin and hydroxychloroquine are very effective and safe, and should be used along with vitamins C and D, melatonin, zinc, and quercetin.”

1.19 The United States Food and Drug Administration (FDA) has approved ivermectin tablets for use in humans for the treatment of some parasitic worms and approved ivermectin topical formulations for the treatment of external parasites such as head lice and scabies, and for skin conditions such as rosacea. The FDA has not approved ivermectin to treat SARS-CoV-2 infections that cause COVID-19.

1.20 Additionally, in the United States, the primary manufacturer of ivermectin, Merck & Co, Inc., issued guidance to clinicians regarding use of ivermectin in treating COVID-19. In Merck’s statement to clinicians, it states that it has concluded ivermectin has no scientific basis for a potential therapeutic effect against COVID-19, no meaningful evidence for clinical activity or clinical efficacy in patients with COVID-19, and a lack of safety data in the clinical studies that have been conducted with COVID-19 patients.

1.21 There have been numerous clinical trials conducted with ivermectin in people with SARS-CoV-2 infection. The results have been closely related to the quality of the studies, with the best conducted studies showing no effect on any of the outcomes of interest. This has been confirmed by a recent meta-analysis which showed no benefit to ivermectin. Some speculated that ivermectin may provide benefit in tropical countries where a substantial number of people are infected with strongyloides, a parasite that is treated with ivermectin. However, a recent Brazilian study (where ~5% of people have strongyloidiasis) showed no benefit for COVID-19. The clinical trial from Egypt cited by Respondent that showed 90% reduction in mortality was retracted on July 14, 2021.<sup>4</sup>

1.22 These statements claim that ivermectin, an anti-parasitic drug, is effective for prevention and treatment of Covid-19. This is harmful because people may delay or avoid receiving effective therapy for Covid-19 and seek or take ivermectin instead. In

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<sup>4</sup> Hill A et al, Ivermectin for COVID-19: Addressing Potential Bias and Medical Fraud. Open Forum Infectious Diseases, Volume 9, Issue 2, February 2022, ofab645; Bitterman A, et al. Comparison of Trials Using Ivermectin for COVID-19 Between Regions With High and Low Prevalence of Strongyloidiasis A Meta-analysis. JAMA Netw Open. 2022;5(3):e223079; Reis G, et al. Effect of Early Treatment with Ivermectin among Patients with Covid-19 N Engl J Med 2022 Mar 30.

addition, it is harmful because people may decline vaccination against Covid-19 assuming that they can take ivermectin instead following exposure or infection and that it will protect them.

### **Statements to the Commission**

1.23 Respondent's commitment to misinformation regarding COVID-19 was further evidenced in multiple statements made to the Commission in response to its investigation. In a statement to the Commission's investigator sent via counsel and dated January 7, 2022, Respondent willfully misrepresented facts with regard to the SARS-CoV-2 virus and denied that it existed:

A. "There is no absolute proof that the SARS-CoV-2 exists."

B. "Why would it be important to differentiate Covid [sic] from influenza? Because influenza cases nearly disappeared in 2020 as influenza was relabeled 'Covid' [sic] due to faulty testing."

1.24 The SARS-CoV-2 virus was identified as a separate species of the genus betacoronavirus, family of coronaviruses, in early 2020. At that time, it was both genetically sequenced as well as grown in the laboratory, and used to infect experimental animals.<sup>5</sup>

1.25 Additionally, in his January 7, 2022, statement, Respondent willfully misrepresented facts with regard to vaccines that were developed to prevent COVID-19:

A. "Life insurance companies are paying out death benefits in the 18-45 year old range, 40% higher than last year. This high rate is expected as a 1 in 200 year event. Insurance companies cannot sustain this type of actuarial outlier payouts. What has changed this actuarial nightmare? The injection of millions of young people with an experimental biologic agent. Very dangerous toxins, graphene with its variant oxide and hydroxide is in a [sic] unknown percent of vials, and the spike protein."

B. "The CDC has stopped taking additional reports of deaths and complications whether life-threatening or elsewhere, to update the VAERS (Vaccine

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<sup>5</sup> Zhu N, et al, A Novel coronavirus from patients with pneumonia in China, 2019, NEJM 2020 Feb 20; 382(8):727-733; Lu R et al Genomic characterization and epidemiology of 2019 novel coronavirus...Lancet 2020 Feb 22;395(10224):565-574; Harcourt J, et al, Severe acute respiratory syndrome coronavirus 2 from patient with coronavirus disease, United States, Emerg Infect Dis 2020 Jun;26(6):1266-1273.



Adverse Event Reporting System). The CDC's own Harvard Lazarus study about the accuracy of deaths and complications showed only one percent of side effects and 10 percent of deaths were accurately reported. Therefore at least 45,000 and likely 200,000 deaths have following Covid [sic] vaccinations and 500,000 adverse events. ... There have been multiple more deaths in less than two years from the Covid [sic] vaccines, than in the previous 30 years from all other vaccines combined. The previous mRNA vaccine attempt was withdrawn after 20 deaths."

1.26 Multiple studies have demonstrated that COVID-19 vaccines are safe and effective for prevention of death and severe illness caused by COVID-19, as well as reduction in the risk of acquiring SARS-CoV-2. The contents of each vaccine is available through the FDA and graphene is not a component of any COVID-19 vaccine. The death and complication statistics do not correlate to any publicly available, peer-reviewed data.

## 2. ALLEGED VIOLATIONS

2.1 Based on the Alleged Facts, Respondent has committed unprofessional conduct in violation of RCW 18.130.180(1), (13), and (22), which provide:

**RCW 18.130.180 Unprofessional conduct.** The following conduct, acts, or conditions constitute unprofessional conduct for any license holder under the jurisdiction of this chapter:

(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 precedent to disciplinary action. Upon such a conviction, however, the judgment and sentence is conclusive evidence at the ensuing disciplinary hearing of the guilt of the license holder of the crime described in the indictment or information, and of the person's violation of the statute on which it is based. For the purposes of this section, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for the conviction and all proceedings in which the sentence has been deferred or suspended. Nothing in this section abrogates rights guaranteed under chapter 9.96A RCW;

...

(13) Misrepresentation or fraud in any aspect of the conduct of the business or profession;

...

(22) Interference with an investigation or disciplinary proceeding by willful misrepresentation of facts before the disciplining authority or its authorized representative, or by the use of threats or harassment against any patient or witness to 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;

...

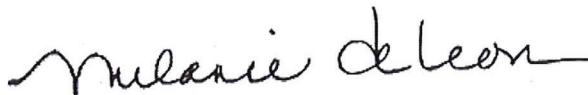
2.2 The above violation provides grounds for imposing sanctions under RCW 18.130.160.

### 3. NOTICE TO RESPONDENT

The charges in this document affect the public health and safety. The Executive Director of the Commission directs that a notice be issued and served on Respondent as provided by law, giving Respondent the opportunity to defend against these charges. If Respondent fails to defend against these charges, Respondent shall be subject to discipline and the imposition of sanctions under Chapter 18.130 RCW.

DATED: August 3, 2022.

STATE OF WASHINGTON  
WASHINGTON MEDICAL COMMISSION



MELANIE DE LEON  
EXECUTIVE DIRECTOR



KRISTIN G. BREWER, WSBA #38494  
ASSISTANT ATTORNEY GENERAL



## **EXHIBIT 2**

**STATE OF WASHINGTON  
WASHINGTON MEDICAL COMMISSION**

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

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

Respondent.

**No. M2022-204**

**ANSWER TO  
STATEMENT OF CHARGES**

To: Richard J. Eggleston, MD  
3495 Clemens Rd.  
Clarkston, WA 99403-9746

Correct Name:

Attorney: Todd S. Richardson  
Law Offices of Todd S. Richardson, PLLC  
604 Sixth Street  
Clarkston, WA 99403

Correct Address:

Correct Phone:

**INSTRUCTIONS:** Please use this form to answer the Statement of Charges and to request an adjudicative proceeding and opportunity for settlement. Correct your name, address, and phone number above, if necessary. Enter your answers below, then sign and date this form. Return it to:

DEPARTMENT OF HEALTH  
ADJUDICATIVE CLERK OFFICE  
P.O. BOX 47879  
OLYMPIA, WA 98504-7879  
(360) 236-4677

**THE ADJUDICATIVE CLERK OFFICE (ACO) MUST RECEIVE THIS COMPLETED FORM WITHIN TWENTY (20) DAYS FROM THE DATE IT WAS MAILED TO YOU.**

If the **twenty (20) day** limit results in a hardship, you may request an extension in writing. ACO must receive your request for an extension within **twenty (20) days** from the date this form was mailed to you. For good cause, the Washington Medical Commission (Commission) will grant an extension not to exceed **sixty (60) days**.

Failure to file an answer within the **twenty (20) day** time limit or within the time limit established by an extension will result in a default. If you are in default you will lose your right to a hearing, and the Commission will enter a Default Order in this case

without your participation. The Default Order may result in the suspension or revocation of your license.

## 1. REQUEST FOR ADJUDICATIVE PROCEEDING AND/OR SETTLEMENT

INSTRUCTIONS: Mark one (1) of the following:

☐ I waive my right to an adjudicative proceeding. I enclose my written statement and/or materials for the Commission to consider in deciding the case.

☒ I request an adjudicative proceeding and an opportunity for settlement. If settlement is not reached, I am entitled to a hearing. I understand that a scheduling order will be issued and that either I or my attorney will be required to participate in all scheduled conferences and the hearing.

## 2. REPRESENTATION

INSTRUCTIONS: Mark the appropriate response and provide correct information:

☒ I will be represented by an attorney who must file a Notice of Appearance.

Name: Todd S. Richardson

Address: 604 Sixth Street / Clarkston, WA 99403

Phone: 509-758-3397

☐ I will not be represented by an attorney.

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### 3. RESPONSE TO ALLEGATIONS

INSTRUCTIONS FOR ADJUDICATION/SETTLEMENT: Indicate below whether you admit, deny, or do not contest each of the alleged facts contained in the numbered paragraphs in the Statement of Charges. Check one (1) response for each numbered paragraph.

Paragraph Number	Admit	Deny	Do Not Contest
1.1	X		
1.2		X	
1.3	X		
1.4	X		
1.5		X	
1.6		X	
1.7		X	
1.8		X	
1.9		X	
1.10	X		
1.11		X	
1.12	X		
1.13	X		
1.14		X	
1.15		X	
1.16	X		
1.17	X		
1.18	X		
1.19		X	
1.20		X	
1.21		X	
1.22		X	
1.23		X	
1.24		X	
1.25		X	
1.26		X	
2.1		X	
2.2		X	

INSTRUCTIONS FOR WAIVER: Mark the appropriate response:

- ☐ I have attached a statement and/or other documents in my defense or in mitigation of charges.
- ☒ I have not attached a statement and/or other documents.

#### 4. INTERPRETER REQUEST

**INSTRUCTIONS:** Complete the appropriate information if you request an interpreter because of a limited English speaking ability and/or because of a hearing or speech impairment.

☐ I request that a qualified interpreter be appointed to interpret for me due to a limited English speaking ability. My primary language is: \_\_\_\_\_.

☐ I request that a qualified interpreter be appointed to interpret for me due to a hearing and/or speech impairment. My hearing or speech impairment requires that an interpreter be able to communicate in the following language:\_\_\_\_\_.

#### 5. SERVICE BY EMAIL AUTHORIZATION

Mark the appropriate response:

☒ By checking this box, I consent to receive all future communications in this matter by email at the following email address:

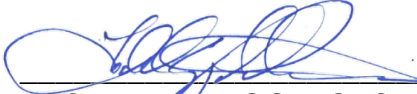
Email: rjegglestonmd@gmail.com; todd@myattorneytodd.com

☐ I do not wish to receive documents via e-mail.

#### 6. PROCEDURAL RIGHTS

You have the right to an adjudicative proceeding and a hearing, to be represented by an attorney at your own expense, to subpoena witnesses or the production of books or documents, and to otherwise defend against the allegations in the Statement of Charges. The rules relating to the hearing process are contained in Chapter 246-11 WAC.

DATED: 10-9-2022.

  
\_\_\_\_\_  
RICHARD J. EGGLESTON, MD  
RESPONDENT

WSBA 30237  
Attorney for

# **EXHIBIT 3**



**STATE OF WASHINGTON  
DEPARTMENT OF HEALTH  
ADJUDICATIVE CLERK'S OFFICE**

In the Matter of:	)	
	)	Master Case No. M2022-204
<b>RICHARD J. EGGLESTON, MD</b>	)	
Credential No. MD.MD.00014109	)	SCHEDULING ORDER/
Respondent.	)	NOTICE OF HEARING
	)	
	)	

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On November 15, 2022, the presiding officer held an initial scheduling call and established the following schedule:

Activity	Date
Witness Identification	February 1, 2023
Exhibits Filed	February 1, 2023
Discovery Completion	March 1, 2023
Dispositive Motions	March 22, 2023
Prehearing Memorandum	April 12, 2023
Prehearing Conference	April 19, 2023
Hearing	May 24 – 26, 2023

Pursuant to WAC 246-11-070, an attorney wishing to represent a party must submit a Notice of Appearance.

Motions must be filed with the Adjudicative Clerk's Office [ACO], with a copy provided for the Presiding Officer, and served on the opposing party. The opposing party has eleven (11) days from the date of the motion to respond, unless otherwise directed by the Presiding Officer. Responses must be filed with the Adjudicative Service Unit, with a copy provided for the Presiding Officer, and served on the opposing party.

**PREHEARING CONFERENCE**

A prehearing conference, pursuant to RCW 34.05.431 and WAC 246-11-390, is scheduled for:

**PREHEARING CONFERENCE**

**TIME: 11:00 a.m.**  
**DATE: April 19, 2023**

**This conference will be convened by telephone. At least two working days before the scheduled conferences, each party must provide its telephone contact number to the Adjudicative Service Unit.**

The names, addresses, and telephone numbers of the presiding officer, the parties, and their representatives are attached. If the telephone number on the attached contact list is correct, no further action is required.

A prehearing conference memorandum must be filed with the Adjudicative Service Unit, with a copy provided for the presiding officer, and served on the opposing party four business days prior to the scheduled prehearing conference. The memorandum should include:

- 1) Matters that relate to amendments of the pleadings;
- 2) A written statement of facts prepared by each party or a stipulated statement of the facts. The parties are encouraged to meet prior to the conference and identify those facts that are admitted and those that are at issue;
- 3) A statement by each party of the issues to be resolved at the hearing. A joint statement of the issues is preferred;
- 4) A list of all witnesses to be examined at the hearing;
- 5) A statement by each party of the relief requested and
- 6) All documents or other exhibits to be admitted at the hearing

The prehearing conference may be recorded. A prehearing order will be issued following the conference. Any materials the parties wish to submit for consideration must be sent to the Adjudicative Service Unit, with a copy provided for the Presiding Officer, and served on the opposing party. This prehearing date may be changed or cancelled at the discretion of the Presiding Officer. If you do not appear at the prehearing, an order of default will be entered against you.

This matter is set for hearing on the following date and time:

<b>TIME:</b>	<b>To be announced</b>
<b>DATE:</b>	<b>May 24 – 26, 2023</b>
<b>PLACE:</b>	<b>To be announced</b>

The hearing date may be changed or canceled at the discretion of the Presiding Officer. If a party fails to appear at the scheduled date and time, an order of default will be entered.

This Scheduling Order may be vacated under the following conditions:

- 1) Upon receipt by the Adjudicative Service Unit of an order disposing of the case (e.g. Stipulation and Agreed Order signed by the parties **and** the disciplining authority) or
- 2) Upon receipt by the Adjudicative Service Unit of an Amended Statement of Charges

**This scheduling order is mandatory on all parties.**

**DATED THIS 15<sup>th</sup> DAY OF November, 2022**

  
\_\_\_\_\_  
**Jessica Blye, Health Law Judge**  
**Presiding Officer**

**ADJUDICATIVE SERVICE UNIT:**

P O Box 47879  
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**PRESIDING OFFICER:**

Jessica Blye  
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Olympia, WA 98504-7879  
Phone: (360) 236-4677

**PARTIES:**

Respondent's counsel:

Todd Richardson  
[todd@myattorneytodd.com](mailto:todd@myattorneytodd.com)  
Phone: (509) 758-3397

Respondent:

Richard J. Eggleston, MD  
[rjegglesonmd@gmail.com](mailto:rjegglesonmd@gmail.com)

Assistant Attorney General:

Kristin Brewer, AAG  
[Kristin.brewer@atg.wa.gov](mailto:Kristin.brewer@atg.wa.gov)  
Phone: (360) 586-2750  
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Health Services Consultant 2:

Stormie Redden  
Department of Health  
PO Box 47866  
Olympia, WA 98504-7866  
Phone: (360) 236-2783

Representative for settlement purposes:

Kyle Karinen, Staff Attorney  
Department of Health  
PO Box 47866  
Olympia, WA 98504-7866  
Phone: (360) 236-4810

**DECLARATION OF SERVICE - Both parties agreed to electronic service of documents**

**I declare that today, at Olympia, Washington, I served a copy of this document upon the following parties of record: Todd Richardson, Attorney for Respondent; Richard J. Eggleston, MD, Respondent; and Kristin Brewer, AAG; by electronic mail.**

**DATED THIS 15th DAY OF November, 2022.**



Adjudicative Clerk's Office

c: Stormie Redden, Health Services Consultant 2  
Kyle Karinen, Staff Attorney

For information on the hearing process please visit our website at:

[www.doh.wa.gov/hearings](http://www.doh.wa.gov/hearings)

Notice to Parties: If you would like to continue to receive orders from ACO electronically, including the Initial Order or Final Order in this case, no further action is needed. If you do not agree with receiving documents electronically, please send an email to [ACOfax@doh.wa.gov](mailto:ACOfax@doh.wa.gov) and service of orders will be made through the U.S. mail.

**AMERICANS WITH DISABILITIES ACT (ADA) - TITLE II**

Persons with a disability, as defined under the ADA, requiring accommodations, are requested to contact the Adjudicative Service Unit, PO Box 47879, Olympia, WA 98504-7879 a minimum of seven (7) days before an event they wish to attend.

**711 Washington Relay Service**

## **EXHIBIT 4**

**STATE OF WASHINGTON  
DEPARTMENT OF HEALTH  
WASHINGTON MEDICAL COMMISSION**

In the Matter of:

RICHARD J. EGGLESTON, MD,  
Credential No. MD.MD.00014109,  
  
Respondent.

Master Case No. M2022-204

PREHEARING ORDER NO. 2:  
ORDER EXTENDING CASE  
DEADLINES

A Scheduling Order/Notice of Hearing was previously issued in the above matter on November 15, 2022. The deadlines for Witness Identification, Exhibit Lists, and Discovery Completion were later extended. See Prehearing Order No. 1. On April 10, 2023, the parties filed a Stipulated Motion to Extend Deadlines, requesting extensions to the deadlines for filing the Respondent's Reply on Motion to Dismiss and prehearing statements and the date for the prehearing conference.

The scheduling order may be modified by order of the presiding officer upon her own initiative or upon motion of a party. WAC 246-11-290(2)(b). The following deadlines are extended as follows:

Activity	Date
Respondent Reply Brief	April 14, 2023
Prehearing Memorandum	April 21, 2023
<b>Prehearing Conference</b>	<b>April 28, 2023, at 11:00 a.m.</b>

The Presiding Officer will initiate the prehearing conference call with the parties. The Adjudicative Clerk's Office will issue a Notice of Hearing informing the parties of the time and format of the hearing. The hearing remains scheduled for May 24-26, 2023.

Dated this 11th day of April, 2023.



JESSICA L. BLYE, Health Law Judge  
Presiding Officer

For more information, visit our website at: <http://www.doh.wa.gov/hearings>



**STATE OF WASHINGTON  
DEPARTMENT OF HEALTH  
ADJUDICATIVE CLERK'S OFFICE**

In the Matter of:

**RICHARD J. EGGLESTON, MD**  
Credential No. MD.MD.00014109

Respondent.

)  
) Master Case No. M2022-204  
)  
)

) DECLARATION OF SERVICE  
)  
)

I declare under penalty of perjury, under the laws of the state of Washington, that the following is true and correct:

On April 11, 2023, I served a true and correct copy of the Prehearing Order No. 2: Order Extending Case Deadlines, signed by the Presiding Officer on April 11, 2023, in the manner indicated, on the following parties to this case:

Todd Richardson  
todd@myattorneytodd.com

☒ ECF/Email  
☐ 1<sup>st</sup> Class Mail

Kristin Brewer, AAG  
Kristin.brewer@atg.wa.gov

☒ ECF/Email  
☐ 1<sup>st</sup> Class Mail

DATED: This 11<sup>th</sup> day of April, 2023.



Michelle Singer, Lead Adjudicative Clerk  
Adjudicative Clerk's Office

cc: Stormie Redden, Health Services Consultant 2  
Kyle Karinen, Staff Attorney

# **EXHIBIT 5**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

RICHARD S. WILKINSON, et al.,

Plaintiffs,

v.

SCOTT RODGERS, et al.,

Defendants.

NO. 1:23-CV-3035-TOR

ORDER GRANTING PLAINTIFFS'  
MOTION TO EXPEDITE AND  
DENYING PLAINTIFFS' MOTION  
FOR TEMPORARY RESTRAINING  
ORDER

BEFORE THE COURT are Plaintiffs' Motion for Temporary Restraining Order (ECF No. 4) and Motion to Expedite the same (ECF No. 3). This matter was submitted for consideration without oral argument. The Court has reviewed the record and files herein and is fully informed. For the reasons discussed below, Plaintiffs' Motion to Expedite (ECF No. 3) is GRANTED and Plaintiffs' Motion for Temporary Restraining Order (ECF No. 4) is DENIED.

ORDER GRANTING PLAINTIFFS' MOTION TO EXPEDITE AND  
DENYING PLAINTIFFS' MOTION FOR TEMPORARY RESTRAINING  
ORDER ~ 1

## BACKGROUND

This matter relates to a Position Statement adopted by the Washington Medical Commission (“WMC”) on September 22, 2021 to address misinformation related to COVID-19 and the available treatments. ECF No. 4 at 2. In relevant part, the Position Statement says: “Treatments and recommendations regarding this disease that fall below standard of care as established by medical experts, federal authorities and legitimate medical research are potentially subject to disciplinary action.” *Id.* The Position Statement also encourages the public and medical practitioners to file complaints when they believe the standard of care has been breached. ECF No. 1 at 28, ¶ 63.

The WMC received complaints about Plaintiffs Wilkerson and Cole. *Id.* at 11, ¶ 6, at 13, ¶ 13. It is unclear whether any complaints were lodged against Plaintiff Eggleston. In any event, all Plaintiffs were investigated by the WMC, and all subsequently received a Statement of Charges alleging they made false and misleading statements to the public regarding COVID-19 and the available treatments. ECF No. 4 at 4–5. Plaintiffs Wilkerson and Eggleston have license review hearings scheduled for April and May, respectively. *Id.* at 5–6. Plaintiff Cole does not have a hearing scheduled at this time. ECF No. 1 at 13, ¶ 13.

Plaintiffs raise seven causes of action: violations the First Amendment and 42 U.S.C. § 1983 (Count I); violations of procedural due process under the Fifth

1 and Fourteenth Amendments, and 42 U.S.C. §§ 1983, 1988 (Count II); violations  
2 of Article I, § 5 of the Washington State Constitution (Count III); violations of the  
3 Washington Administrative Procedures Act, RCW 34.05, *et seq.* (Count IV);  
4 violations of substantive due process under the Fifth and Fourteenth Amendments,  
5 and 42 U.S.C. § 1983 (Count V); defamation/false light (Count VI); and tortious  
6 interference with business relationship and/or expectancy (Count VII) (raised only  
7 by Plaintiff Cole). *Id.* at 30–50, ¶¶ 72–146. Plaintiffs seek a temporary restraining  
8 order to enjoin Defendants from enforcing the Position Statement. ECF No. 4.

## 9 DISCUSSION

### 10 I. Temporary Restraining Order (TRO)

11 Pursuant to Federal Rule of Civil Procedure 65, a district court may grant a  
12 TRO in order to prevent “immediate and irreparable injury.” Fed. R. Civ. P.  
13 65(b)(1)(A). The analysis for granting a TRO is “substantially identical” to that  
14 for a preliminary injunction. *Stuhlbarg Int’l Sales Co., Inc. v. John D. Brush &*  
15 *Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001). It “is an extraordinary remedy never  
16 awarded as of right.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 24 (2008).

17 To obtain this relief, a plaintiff must demonstrate: (1) a likelihood of success  
18 on the merits; (2) a likelihood of irreparable injury in the absence of preliminary  
19 relief; (3) that a balancing of the hardships weighs in plaintiff’s favor; and (4) that  
20 a preliminary injunction will advance the public interest. *Winter*, 555 U.S. at 20;

1 *M.R. v. Dreyfus*, 697 F.3d 706, 725 (9th Cir. 2012). Under the *Winter* test, a  
2 plaintiff must satisfy each element for injunctive relief.

3 Alternatively, the Ninth Circuit also permits a “sliding scale” approach  
4 under which an injunction may be issued if there are “serious questions going to  
5 the merits” and “the balance of hardships tips sharply in the plaintiff’s favor,”  
6 assuming the plaintiff also satisfies the two other *Winter* factors. *All. for the Wild*  
7 *Rockies v. Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011) (“[A] stronger showing of  
8 one element may offset a weaker showing of another.”). “[T]he district court ‘is  
9 not bound to decide doubtful and difficult questions of law or disputed questions of  
10 fact.’” *Int’l Molders’ and Allied Workers’ Local Union No. 164 v. Nelson*, 799  
11 F.2d 547, 551 (9th Cir. 1986). In the same vein, the court’s factual findings and  
12 legal conclusions are “not binding at trial on the merits.” *Univ. of Tex. v.*  
13 *Camenisch*, 451 U.S. 390, 395 (1981). The moving party bears the burden of  
14 persuasion and must make a clear showing of entitlement to relief. *Winter*, 555  
15 U.S. at 22.

#### 16 **A. Likelihood of Success on the Merits**

17 Plaintiffs raise several federal and state causes of action. While this Court  
18 may exercise supplemental jurisdiction over state law claims pursuant to 28 U.S.C.  
19 § 1367, the decision is discretionary. *Acri v. Varian Assocs., Inc.*, 114 F.3d 999,  
20 1000 (9th Cir. 1997), *supplemented*, 121 F.3d 714 (9th Cir. 1997), *as amended*,



1 (Oct. 1, 1997). In the interests of judicial economy, convenience, fairness, and  
2 comity, the Court declines supplemental jurisdiction over Plaintiffs’ state law  
3 claims and will address only the challenges to federal law.

4 Plaintiffs allege three causes of action for violations of their federal  
5 constitutional and statutory rights. ECF No. 1 at 30–39, ¶¶ 72–110, at 45–49, ¶¶  
6 132–142. Plaintiffs cannot succeed on the merits of these claims for several  
7 reasons. First and foremost, Plaintiffs challenge a Position Statement, which is  
8 neither a law nor regulation. Plaintiffs’ argument that the Position Statement is a  
9 Policy Statement describing WMC’s approach to the implementation of a law or  
10 regulation is a misinterpretation of the Position Statement. ECF No. 4 at 3–4. The  
11 plain language of the Position Statement clearly indicates certain activities may be  
12 subject to disciplinary action. The Position Statement does not contain any  
13 enforcement mechanisms, nor does it describe any policies or implementation  
14 procedures regarding a law or regulation. Therefore, any claims purportedly  
15 arising under the Position Statement are not cognizable. Furthermore, Plaintiffs’  
16 true grievances seem to lie with the investigations and disciplinary hearings, not  
17 the Position Statement itself. *See generally*, ECF No. 1.

18 Next, “*Younger* abstention requires federal courts to abstain from hearing  
19 claims for equitable relief as long as the state proceedings are ongoing, implicate  
20 important state interests, and provide an adequate opportunity to raise federal

1 questions.” *Alsager v. Bd. of Osteopathic Med. & Surgery*, 945 F. Supp. 2d 1190,  
2 1195 (W.D. Wash. 2013), *aff’d*, 573 F. App’x 619 (9th Cir. 2014) (citing  
3 *Buckwalter v. Nevada Bd. of Medical Examiners*, 678 F.3d 737, 747 (9th Cir.  
4 2012)). All three *Younger* elements are met here. Medical disciplinary board  
5 hearings constitute state proceedings, and since none of the Plaintiffs have  
6 completed the hearing process, the proceedings are ongoing; medical board  
7 disciplinary proceedings clearly implicate an important state interest in ensuring  
8 adequate healthcare; and Washington law provides Plaintiffs with an opportunity  
9 to raise federal constitutional challenges on appeal to Washington state courts. *See*  
10 *id.* at 1195–96; RCW 18.130.140. Accordingly, even if Plaintiffs’ claims were  
11 cognizable, this Court would be required to abstain from exercising jurisdiction.

12 Additionally, this Court appears to lack personal jurisdiction over the  
13 defendants. Although Plaintiffs name numerous members of the WMC as  
14 defendants in the Complaint, neither the pleadings nor the current motion alleges  
15 any causes of action against the named individuals; all allegations are made against  
16 the WMC as a whole. Because the WMC is not a person for purposes of 42 U.S.C.  
17 § 1983 liability, Plaintiffs have failed to carry their burden to establish personal  
18 jurisdiction. *See Riley’s Am. Heritage Farms v. Elsasser*, 32 F.4th 707, 732 (9th  
19 Cir. 2022); *Tuazon v. R.J. Reynolds Tobacco Co.*, 433 F.3d 1163 (9th Cir. 2006).

20 Finally, even if Plaintiffs had properly alleged causes of action against the

1 named individuals, the claims would still fail because the named individuals are  
2 likely protected by immunity. *See Delashaw v. Roberts*, No. C18-1850JLR, 2020  
3 WL 4922203 (W.D. Wash. Aug. 21, 2020) (finding the defendants who  
4 participated in the investigation and presentation of information at a WMC  
5 disciplinary hearing were entitled to absolute immunity because they acted in a  
6 quasi-prosecutorial role, and finding the remaining defendants entitled to qualified  
7 immunity where their participation in the disciplinary hearings was not integral to  
8 the ultimate licensure suspension); *see also* RCW 18.71.015, RCW 18.130.300.

9 Plaintiffs have failed to establish they are likely to succeed on the merits of  
10 their claims or that there are serious questions going to the merits. Because a  
11 likelihood of success on the merits is a prerequisite to granting a TRO, the Court  
12 need not address the issue of irreparable harm. *Dollar Rent A Car of Washington,*  
13 *Inc. v. Travelers Indem. Co.*, 774 F.2d 1371, 1375 (9th Cir. 1985).

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1 **ACCORDINGLY, IT IS HEREBY ORDERED:**

2 1. Plaintiffs' Motion to Expedite (ECF No. 3) is **GRANTED**.

3 2. Plaintiffs' Motion for Temporary Restraining Order (ECF No. 4) is  
4 **DENIED**.

5 The District Court Executive is directed to enter this Order and furnish  
6 copies to counsel.

7 DATED March 17, 2023



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*Thomas O. Rice*  
THOMAS O. RICE  
United States District Judge

# **EXHIBIT 6**

**STATE OF WASHINGTON  
DEPARTMENT OF HEALTH  
WASHINGTON MEDICAL COMMISSION**

In the Matter of:

RICHARD J. EGGLESTON,  
Credential No. MD.MD.00014109,  
  
Respondent.

Master Case No. M2022-204

PREHEARING ORDER NO. 3:  
ORDER DEFINING CONDUCT  
OF HEARING

Presiding Officer: Jessica L. Blye, Review Judge

The Presiding Officer convened a prehearing conference on April 28, 2023, pursuant to RCW 18.130.095(3) and WAC 246-11-390. Present at the prehearing conference were Jessica Blye, the Presiding Officer; Kristin Brewer, Assistant Attorney General; and Todd Richardson and Richard Jaffe, Attorneys at Law.

This prehearing order contains the stipulations and agreements of the parties related to the conduct of the hearing in this matter, and the prehearing orders and decisions of the Presiding Officer on discovery, evidentiary issues, and motions brought by either party.

1. Amendments of the Pleadings. On October 9, 2022, after receiving an extension of time to file, the Respondent timely filed an Answer to Statement of Charges. On March 21, 2023, the Respondent filed another Answer to Statement of Charges. On April 19, 2023, the Respondent filed a First Amended Answer to Statement of Charges. The Department objected to including the updated Answers in the materials to be submitted to the panel deciding this matter. The March 21 and April 19, 2023, Answers were filed beyond the deadline for filing an Answer and there is no provision for filing amendments after the deadline beyond permitting the Respondent to later admit or not contest previously denied allegations. Therefore, the March 21 and April 19, 2023 Answers will not be submitted to the panel.

2. Discovery Issues. The Respondent's Attorneys indicated that they would provide to the Department a declaration from Sanjay Verma, M.D.

PREHEARING ORDER NO. 3:  
ORDER DEFINING CONDUCT  
OF HEARING

Page 1 of 8

Master Case No. M2022-204

3. Statement of Issues.

- A. Did the Respondent engage in unprofessional conduct as alleged under RCW 18.130.180(1), (13), and (22)?
- B. If unprofessional conduct is proven by the Department, what is the appropriate sanction under RCW 18.130.160?

4. Witnesses. Any witness not identified during the prehearing conference shall not be allowed to testify at the adjudicative proceeding absent good cause. WAC 246-11-390(8).

A. The Department may call the following witnesses:

- 1. Richard Eggleston, M.D., Respondent
- 2. Anna Wald, M.D., MPH
- 3. Leslie Enzian, M.D.
- 4. Brian Rhodes
- 5. Don Greggain, M.D.
- 6. G. Michael Piechota, Department Investigator

B. The Respondent may call the following witnesses:

- 1. Richard Eggleston, M.D., Respondent
- 2. Harvey Risch, M.D., Ph.D.
- 3. Pierre Kory, M.D. or Dr. Paul Marik in the alternate
- 4. Sanjay Verma, M.D.
- 5. Colleen Huber, NMD
- 6. James Lyon Weiler, Ph.D.
- 7. Peter McCullough, M.D.
- 8. Butch Alford

Greg Glaser, Esq. is not permitted to testify at the adjudicative proceeding.

However, the Respondent is permitted to file a declaration of this witness for the purpose of creating a record.

5. Exhibits. Documentary evidence not offered in the prehearing conference shall not be received into evidence at the adjudicative proceeding absent good cause. WAC 246-11-390(7).

A. The following exhibits are admitted as numbered:

Exhibit D-1: Curriculum Vitae of Anna Wald, MD, MPH

Exhibit D-2: Report of Anna Wald, MD, MPH

Exhibit D-3: Curriculum Vitae of Leslie Enzian, MD

Exhibit D-4: Complaint

Exhibit D-5: Department's letter of Cooperation (LOC) to Respondent dated December 9, 2021

Exhibit D-6: Response to Department's LOC dated January 26, 2022

Exhibit D-7: Respondent's statement

Exhibit D-8: Articles and commentaries written by Respondent

Exhibit D-9: Commentary of Dr. Don Greggian and Dr. John Rusche published in the Lewiston Tribune on March 27, 2021

Exhibit D-10: AMA Opinion, Code of Medical Ethics, 2.3.2. Professionalism in the Use of Social Media

Exhibit D-11: "About Us" page from The Lewiston Tribune Website

Exhibit D-12: Why You Should Not Use Ivermectin to Treat or Prevent COVID-19 –FDA article updated as of December 10, 2021

Exhibit D-13: Merck Statement on Ivermectin use During the COVID-19 Pandemic – Merck article dated February 4, 2021



Exhibit D-14: Proclamation by the Governor Amending and Extending Proclamation 20-05, 20-60, Yakima County – Face Coverings dated June 24, 2020

Exhibit D-15: Order of the Secretary of Health, 20-03, Face Coverings – Statewide dated June 24, 2020

Exhibit D-16: FDA News Release: Coronavirus (COVID-19) Update: FDA Revokes Emergency User Authorization for Chloroquine and Hydroxychloroquine dated June 15, 2020

Exhibit D-17: CDC COVID-19 Interim Public Health Recommendations for Fully Vaccinated People updated April 29, 2021

Exhibit D-19: “Opinion: What I wrote was intentional, but not in error” by Richard Eggleston, published in The Lewiston Tribune on October 2, 2022 (Sanctions Only)

Exhibit D-20: “Opinion: Why American Medicine has become what it is” by Richard Eggleston, published in The Lewiston Tribune on April 16, 2023 (Sanctions Only)

Exhibit R-2: CDC: Vital Statistics Reporting Guidance

Exhibit R-8: WA Medical Commission: COVID 19 Misinformation position paper

Exhibit R-13: Harvey Risch Curriculum Vitae

Exhibit R-14: Dr. Colleen Huber CV

B. The following exhibits were withdrawn or rejected:

Exhibit R-1: Dr. Eggleston articles (withdrawn as duplicative)

Exhibit R-15: American Journal of Therapeutics: Review of the Emerging Evidence Demonstrating the Efficacy of Ivermectin (withdrawn as duplicative)

C. The Presiding Officer reserved ruling on the following exhibits:

- Exhibit D-18: COVID-19-Related Infodemic and Its Impact on Public Health: A Global Social Media Analysis, Am. J. Trop. Med. Hyg., 103(4), 2020, pp. 1621-1629
- Exhibit R-3: Journal of Antibiotics: Mechanisms of action of ivermectin against SARS-CoV
- Exhibit R-4: Molecular Basis for Disease: Repositioning Ivermectin for Covid-19 treatment
- Exhibit R-5: Journal of Infectious Diseases: The Crux of Ebola Diagnostics
- Exhibit R-6: Antiviral Research: Ivermectin inhibits the replication of SARS-CoV-2
- Exhibit R-7: European Journal of Clinical Investigation: Reconciling estimates of global spread and infection fatality rates of COVID
- Exhibit R-9: Clinical Infections Diseases: Predicting Infectious Sever Acute Respiratory Syndrome COVID from Diagnostic Samples
- Exhibit R-10: Johns Hopkins Newsletter: A closer look at U.S. deaths due to COVID
- Exhibit R-11: American Journal of Therapeutics: Review of the Emerging Evidence Demonstrating the Efficacy of Ivermectin
- Exhibit R-12: Johns Hopkins Working Paper: COVID-19 Deaths: A look at U.S. Data
- Exhibit R-16: Transboundary and Emerging Diseases: Pitfalls in SARS-CoV2 PCR Diagnostics
- Exhibit R-17: Pathology: Accuracy amidst ambiguity: false positive SARS-CoV2 nucleic acid tests when COVID-19 prevalence is low

Exhibit R-18: Institute for Pure and Applied Knowledge: Has CDC's COVID 19 Death Ascertainment and Diagnosis Protocol Condemned Public Health and Medicine to Sisyphean Task?

Exhibit R-19: Science, Public Health Policy, and The Law: COVID-19 Data Collection, Comorbidity & Federal Law

Exhibit R-20: International Journal of Geriatrics and Rehabilitation: Testing for SARS-CoV-2 in cellular components by routine nested RT-PCR followed by DNA sequencing

Exhibit R-21: Nature Communications: Post-lockdown SARS-CoV-2 nucleic acid screening in nearly ten million residents of Wuhan, China

6. Prehearing Motions.

A. Respondent's Motion to Dismiss.

On March 22, 2023, the Respondent filed a Motion to Dismiss. The Respondent argued that the allegations in the Statement of Charges were not unprofessional conduct as a matter of law, punished him for his speech in violation of his First Amendment rights, and must be dismissed.

On April 3, 2023, the Department filed a response. The Department argued that alleged facts do not, in fact, violate the Respondent's First Amendment rights. Further, the Department argued that the allegations required the clinical expertise of the Commission to determine, and the motion could not be granted because it was asking for one or more statutes to be declared partially invalid.

On April 14, 2023, the Respondent filed a reply. The Respondent reiterated his Constitutional arguments.

The Commission's procedural rules (chapter 246-11 WAC) do not specifically provide for a motion to dismiss. However, pursuant to WAC 246-11-480(3), the Presiding Officer shall:

- (a) Apply as the first source of law governing an issue those statutes and rules deemed applicable to the issue;
- (b) If there is no statute or rule governing the issue, resolve the issue on the basis of the best legal authority and reasoning available, including that found in federal and Washington Constitutions, statutes, rules, and court decisions; and
- (c) Not declare any statute or rule invalid.

The undersigned Presiding Officer can rule on some motions for summary judgment or motions to dismiss. For example, the Presiding Officer can determine that a party has not met the criteria for summary judgment or a motion to dismiss. However, the Presiding Officer's authority does not include granting motions to dismiss where clinical expertise is necessary.

RCW 18.130.050(10) states in part:

Disciplining authorities identified in RCW 18.130.040(2)(b) may not delegate the final decision regarding disposition of the license or imposition of sanctions to a presiding officer in any case pertaining to standards of practice or where clinical expertise is necessary, including deciding any motion that results in dismissal of any allegation contained in the statement of charges. (emphasis added)

The Washington Medical Commission is identified as a disciplining authority in RCW 18.130.040(2)(b). "Clinical expertise" means the proficiency or judgment that a license holder in a particular profession acquires through clinical experience or clinical practice and that is not possessed by a lay person. RCW 18.130.020(2).

The Statement of Charges does not involve allegations that the Respondent treated patients below the standard of care. However, the allegations of moral turpitude,

dishonesty, or misrepresentation involve evaluating the statements the Respondent made regarding medical treatment and COVID-19. Because of this, the case requires clinical expertise to make a final determination. As a result, the undersigned Presiding Officer may not issue a final decision, including dismissing the allegations at issue here. Only the Commission may issue such a decision. Thus, the motion must be DENIED.<sup>1</sup>

7. Relief Statement. The Department requests that the charges alleged in the Statement of Charges be affirmed and appropriate sanctions be imposed. The Respondent requests dismissal.

8. Hearing. The parties predict the hearing will be three days in length. The hearing date is therefore scheduled for **May 24-26, 2023**. A Notice of Hearing will be sent describing the start time and format of the hearing.

Dated this 18th day of May, 2023.



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JESSICA L. BLYE, Review Judge  
Presiding Officer

For more information, visit our website at: <http://www.doh.wa.gov/hearings>

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<sup>1</sup> It is true that the motion could be provided to a Commission panel if there was a legal basis for a panel to grant the motion. However, there is not a legal basis in this case as the law is clear in Washington that administrative agencies have only the authority granted to them by the legislature. This authority does not include the authority to declare any statute or portion of a statute invalid. *Haines-Marchel v. Washington State Liquor & Cannabis Bd.*, 1 Wn. App. 2d 712, 744, 406 P.3d 1199, 1217 (2017); WAC 246-11-480(3)(c).

**STATE OF WASHINGTON  
DEPARTMENT OF HEALTH  
ADJUDICATIVE CLERK'S OFFICE**

In the Matter of:

**RICHARD J. EGGLESTON, MD**  
Credential No. MD.MD.00014109

Respondent.

)  
) Master Case No. M2022-204  
)  
)

) DECLARATION OF SERVICE  
)  
)

I declare under penalty of perjury, under the laws of the state of Washington, that the following is true and correct:

On May 18, 2023, I served a true and correct copy of the Prehearing Order No. 3: Order Defining Conduct of Hearing, signed by the Presiding Officer on May 18, 2023, in the manner indicated, on the following parties to this case:

Todd Richardson  
tidd@myattorneytodd.com

☒ ECF/Email  
☐ 1<sup>st</sup> Class Mail

Richard Jaffe  
rickjaffeesquire@gmail.com

☒ ECF/Email  
☐ 1<sup>st</sup> Class Mail

Kristin Brewer, AAG  
Office of the Attorney General  
Kristin.brewer@atg.wa.gov

☒ ECF/Email  
☐ 1<sup>st</sup> Class Mail

DATED: This 18<sup>th</sup> day of May, 2023



Michelle Singer, Lead Adjudicative Clerk  
Adjudicative Clerk's Office

cc: Stormie Redden, Health Services Consultant 2  
Kyle Karinen, Staff Attorney

# **EXHIBIT 7**

FILED

2023 MAY 17 PM 4:29

MCKENZIE A. CAMPBELL  
COUNTY CLERK  
ASOTIN COUNTY, WA

**SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR THE COUNTY OF ASOTIN**

RICHARD J. EGGLESTON, MD,

Plaintiff,

v.

WASHINGTON MEDICAL  
COMMISSION,

Defendant.

NO. 23-2-00069-02

ORDER DENYING  
PLAINTIFF'S MOTION FOR  
PRELIMINARY INJUNCTION

THIS MATTER came before the Court on Plaintiff's Motion for a Preliminary Injunction seeking to prevent the hearing scheduled before Washington Medical Commission to enforce the Uniform Disciplinary Act regarding the license to practice of Plaintiff. The Court having reviewing the pleadings and other documents filed by the parties, HEREBY ORDERS:

The Motion for Preliminary Injunction is DENIED. Plaintiff has not met the requirements for a preliminary injunction. Plaintiff has not established that he is likely to prevail on the merits because The Uniform Declaratory Judgement Act under which Plaintiff seeks relief "does not apply to state agency action reviewable under chapter 34.05 RCW." RCW 7.24.146. The Commission's disciplinary proceeding is governed by the Administrative Procedures Act, chapter 34.05. Also, judicial review is only available for final orders and there is no final order for this Court to review. RCW 34.05.570(3); 34.05.010(11).

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1 The Court further finds that Plaintiff has not established that he will be irreparably injured  
2 by participating in the administrative hearing scheduled to proceed in approximately two weeks.  
3 On this record the Court cannot find that Dr. Eggleston's interest in judicial intervention into the  
4 legislatively decreed administrative process outweighs the Commission's duty to regulate the  
5 practice of medicine and to protect the public and the standing of the medical profession.

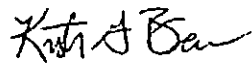
6 IT IS SO ORDERED.

7  
8 DATED this 17th day of May 2023.

9  
10  
11   
12 Honorable Judge

13 Presented by:

14 ROBERT W. FERGUSON  
15 Attorney General

16  
17 

18 KRISTIN G. BREWER, WSBA #38494  
19 Assistant Attorney General  
20 Attorney for Commission

21 Agreed as to form:

22 LAW OFFICES OF TODD S. RICHARDSON

23  
24  
25 TODD S. RICHARDSON, WSBA #30237  
26 Attorney for Plaintiff

**AGO/GCE**

**May 22, 2023 - 4:56 PM**

**Transmittal Information**

**Filed with Court:** Court of Appeals Division III  
**Appellate Court Case Number:** 39731-9  
**Appellate Court Case Title:** Richard Eggleston v. Washington Medical Commission  
**Superior Court Case Number:** 23-2-00069-8

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