



# GRAY REED

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April 15, 2015

Via Email – [peggy.perry@dshs.state.tx.us](mailto:peggy.perry@dshs.state.tx.us)

Ms. Peggy Perry  
Director, State Hospital Section  
Texas Department of State Health Services  
P.O. Box 149347  
Austin, TX 78714-9347

RE: Dr. Lisa S. Perdue/Notice of Possible Disciplinary Action

Dear Ms. Perry:

Please be advised that my law firm represents Dr. Perdue. Please accept this as our response to the hand-delivered letter provided to her on April 14, 2015 relating to Notice of Possible Disciplinary Action.

Please be advised that we believe the actions being taken by the Texas Department of State Health Services (herein after "DSHS") violate the due process of Dr. Perdue. The allegations which you are relying upon relate to an Examination Under Oath which took place on September 30, 2014. However, DSHS waited more than six (6) months to put together the extensive and overbroad allegations against Dr. Perdue and only chose to provide 24 hours for Dr. Perdue to respond in writing or orally. Clearly, this letter and the allegations being raised took DSHS longer than 24 hours to contemplate, prepare and spring upon Dr. Perdue.

Please be advised that we will be fully reviewing all actions of DSHS in this regard and will be exploring all options available to Dr. Perdue to determine if the actions taken by DSHS constitute wrongful termination, discriminatory conduct or any other misconduct which may provide a legal remedy for Dr. Perdue. Additionally, the letter indicates that this could lead to possible dismissal of her employment from Terrell State Hospital (hereinafter "TSH"). However, none of the conduct as alleged in your lengthy letter to Dr. Perdue qualifies as a "major offense" as set forth in Chapter 11 of the Health and Human Services Human Resources Policy entitled *Disciplinary Actions*. Paragraph B of such policy relates to dismissals and defines major offenses. None of the allegations set forth in the April 14, 2015 letter fall under the definition of major offenses. As a matter of fact, Dr. Perdue's cooperation and voluntary testimony in an Examination Under Oath is the exact opposite of one of the definitions of major offense which is "refusal to cooperate in an investigation conducted by the agency concerning possible violation of law or policy". Clearly by voluntarily cooperating in giving the

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Examination Under Oath, DSHS is now taking the position that such action should be rewarded with disciplinary action including possible dismissal from employment in contravention of Chapter 11 of the Human Resources Policy.

With regard to the specific allegations set forth in your April 14, 2015 letter, I am going to try and address many of the inaccuracies. However, due to the time constraints, I am not sure I can address all of the inaccuracies.

1. We do not believe that the total amount of money recited in paragraph 2 is accurate in relation to the amounts of money paid to her while she was employed with TSH.
2. The Examination Under Oath was not taken in pursuit of this matter (investigation of Dr. Perdue), but was taken in pursuit of a claim against AstraZeneca (at least that is how it was portrayed by the State of Texas).
3. Dr. Perdue disputes your characterization that she intentionally participated in a plan on behalf of AstraZeneca to use her influence over the Executive Formulary Committee Members.
4. Dr. Perdue disagrees that she agreed to a request by AstraZeneca to contact particular members of the Executive Formulary Committee in order to use her position as a state employee on behalf of AstraZeneca and Seroquel XR, she was doing this because she thought this drug offered less toxic side effects for some patients.
5. Dr. Perdue does not believe she violated Chapter 4 of the Health and Human Services Human Resources Policy.
6. Dr. Perdue does not believe that she acted in a manner which conflicted with her proper discharge of her duties or in any way violated the public interest.
7. Dr. Perdue did not accept any gift, favor or service. She was compensated for her time and expertise as a psychiatrist in giving speeches to professionals on her own personal time.
8. Dr. Perdue did not receive any gift, favor or service that was being offered with the intent to influence her official conduct.
9. Dr. Perdue did not accept any employment or compensation that impaired her independence of judgment in the performance of her official duties.

10. Dr. Perdue made no personal investment that created a substantial conflict between her private interests and the public interests.
11. Dr. Perdue never accepted any benefit for having exercised her official powers or in the performance of her official duties in favor of another. She was never compensated for voting or presenting information to the Executive Formulary Committee. She was never compensated for prescribing medication which she felt was the best possible medication for a particular patient. As DSHS is well aware (since a secret audit was conducted on what medications Dr. Perdue prescribed during some of the timeframes in question showed that her use of Seroquel XR is actually an extremely low percentage of her patients, which is not something you would expect if she was being encouraged by AstraZeneca to over prescribe in order to boost their profits). Such actions never occurred and she was never asked to do such a thing.
12. Dr. Perdue does not believe she violated Chapter 4 of the HHS Human Resources Policy.
13. Dr. Perdue does believe that she followed Work Rule 1 and 7.
14. Dr. Perdue does not believe that she violated Work Rule 8 and did not accept or solicit any gift, favor or service except as it relates to her employee's salary with the state.
15. With regard to Work Rule 18, Dr. Perdue does not believe that she ever engaged in any conduct or relationship that actually impaired her objectivity or endangered confidentiality.
16. Dr. Perdue does not believe she violated Work Rule 19. Dr. Perdue had actually spoken on behalf of AstraZeneca prior to her employment with TSH. Dr. Perdue does not believe that she was asked to speak on behalf of AstraZeneca because she was an employee of the state, but because she was an outstanding psychiatrist and speaker who enjoyed teaching other professionals about new indications and medications.
17. Dr. Perdue never acted in a manner that interfered with her proper performance of her duties or acted in a manner that in any way violated any portion of Work Rule 28.
18. Dr. Perdue does not believe that she in any way violated the HHS Ethics Policy.

19. Dr. Perdue does not believe that she ever accepted any gift, favor or service. As stated above, she only accepted compensation for services rendered. Further, such compensation did not in any way influence her while she was employed by TSH or in the conduct of any state business.
20. As stated above, Dr. Perdue would have been hired to give such speeches irrespective of whether she was a state employee or not. She does not believe that she was hired and paid services, but for her official status with TSH.
21. As stated above, Dr. Perdue never made any personal investment or participated in personal relationships that would create an actual conflict of interest with her duties as an HHS employee.
22. Dr. Perdue did disclose her moonlighting activity with AstraZeneca and such was approved by her supervisor as required. We also understand that her supervisor had similar approval for similar moonlighting opportunities which was approved by his supervisor.
23. Seroquel XR is not the only drug that Dr. Perdue has ever asked a P & T Committee to add to the formulary. She has done this for at least one other drug in her career and reached out to committee members in that scenario to encourage them to add such drug to the formulary. She had no relationship with that drug company that manufactured that drug.
24. Dr. Perdue understands that four other healthcare providers tried at different times to get Seroquel XR added to the formulary.

Please contact me upon receipt of this letter in order that we may discuss options for resolution of this matter.

Thank you.

Sincerely,



Ken C. Stone

KCS/sh  
cc: Dr. Lisa Perdue Via Email