

Texas Medical Board

News Release

FOR IMMEDIATE RELEASE

Thursday, June 14, 2007

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Medical Board Disciplines 30 Doctors

At its June 7-8 meeting, the Texas Medical Board took disciplinary action against 30 licensed physicians. At its May 19 meeting, the Texas Physician Assistant Board took action against three physician assistants.

Medical Board actions included seven violations based on quality of care; two actions based on unprofessional conduct; three actions based on violation of probation or prior board orders; two actions based on criminal convictions; one action based on peer review actions; three actions based on inadequate medical records violations; one action based on inappropriate conduct involving the physician-patient relationship; two actions based on impairment due to alcohol or drugs; one action based on nontherapeutic prescribing; and seven minimal statutory violations. ♦

New Licenses Issued

The board issued 504 licenses at the June 7-8 meeting.

Rule Changes Adopted

The board adopted the following rule changes that were published in the *Texas Register*.

Chapter 163, Licensure, proposed amendments to ♦163.1, Definitions, and 163.2, Full Texas Medical License, regarding recognition of Texas Higher Education Coordinating Board authority to determine a school to be Fraudulent or Substandard and to clarify that any foreign medical school must meet the Boards substantial equivalence requirements; ♦163.4, Procedural Rules for Licensure Applicants, regarding processing of applications determined to be ineligible to allow appeal to Licensure Committee

on one issue, without spending staff time to process the rest of the application; ♦163.6, Examinations Accepted for Licensure, to delete subparagraph (e) (10-Year Rule) and make it a new ♦163.7; ♦163.6, Examinations Accepted for Licensure, adding a new ♦163.7(e)(4) eliminating requirements to retake the jurisprudence examination; adding a new ♦163.7, Ten Year Rule, to include the provision previously included in ♦163.6(e); adding a new ♦163.8, Authorization to Take Professional Licensing Examination, to set forth in rule the provisions for applicants to take an examination, invoking the exemption from Chapter 61, Subchapter G, Texas Education Code, as provided in ♦61.303, Texas Education Code; and adding a new ♦163.9, Only One License, to provide that any outstanding license or permit is canceled upon issuance of another license.

Chapter 164, Physician Advertising, proposed amendments to ♦164.4, Board Certification, to set forth requirements for advertising a medical specialty.

Chapter 166, Physician Registration, proposed amendments to ♦166.5, Relicensure, to refer to provisions of Chapter 196 for cancellation upon non-payment, relinquishment, or surrender.

Chapter 172, Temporary and Limited Licenses, proposed amendments to ♦172.5, Visiting Physician Temporary Permit, to remove the requirement of a license in another state.

Chapter 173, Physician Profiles, to include amendments to ♦173.3, Physician Initiated Updates, requiring updates regarding address changes, conviction, or incarceration within 30 days.

Chapter 182, Use of Experts, proposed amendments to ♦182.5, Expert Panel, to add the American Board of Oral and Maxillofacial Surgery to subparagraph (2)(B) and to provide for removal from the Expert Panel if a panelist repeatedly provides unreliable reports.

Chapter 184, Surgical Assistants, proposed amendments to ♦184.4, Qualifications for Licensure, to delete outdated provisions; amendments to ♦184.8, License Renewal, to provide for cancellation upon expiration of a permit; and a new ♦184.26, Voluntary Relinquishment or Surrender of a License, to refer to Chapter 196, regarding Relinquishment or Surrender of a license.

Chapter 187, Procedural Rules, to add a new Subchapter G., Suspension by Operation of Law, to provide a procedure for mandatory suspension or revocation of license upon incarceration under ♦164.058 of the Medical Practice Act.

Chapter 190, Disciplinary Guidelines, proposed amendments to §190.8, Violation Guidelines, to set standards for making medical necessity decisions, providing on-call back-up by person who is not licensed or does not have training or experience, and prohibition against physician subject to an investigation from contacting a complainant or witness for purpose of intimidation.

Chapter 196, Voluntary Surrender of Medical License, to change the title of the chapter and include amendments to §196.1 and §196.4, to change the term for voluntary surrender that is not involved in disciplinary action or impairment to Relinquishment.

Chapter 198, Unlicensed Practice, proposed amendments to §§198.1 - 198.6, to establish a procedure for cease and desist orders.

Proposed Rule Changes withdrawn to be republished

Chapter 161, General Provisions, proposed amendments to §161.3, Organization and Structure, regarding guidelines for conduct of board members.

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Chapter 190, Disciplinary Guidelines, proposed new section (N) Failure to follow standard procedures necessary to make a reasoned medical decision in the assessment and/or determination of the medical necessity of treatment for another individual, entity, or organization....

No Action Taken

Chapter 172, Temporary and Limited Licenses, new §172.14, Limited License for Administrative Medicine, to establish a new limited license for administrative medicine, as authorized by SB 419.

Proposed Rule Review

The following Rule Reviews will be published in the *Texas Register* for comment, in accordance with §2001.039, Gov't Code:

Chapter 176, Health Care Liability Lawsuits and Settlements, §§176.1 - 176.9.

Chapter 191, District Review Committees, §§191.1 § 191.54.

Chapter 182, Use of Experts, §§182.1 § 182.8.

Chapter 181, Contact Lens Prescriptions, §§ 181.1 § 181.7.

Chapter 194, Non-certified Radiologic Technicians, §§194.1 § 194.11.

Chapter 197, Emergency Medical Service, §§197.1 § 197.6.

Chapter 200, Complementary and Alternative Medicine, §§200.1 § 200.3.

Open records requests for orders may be made to openrecords@tmb.state.tx.us. **Media** contact Jill Wiggins at (512) 305-7018 or jill.wiggins@tmb.state.tx.us.

QUALITY OF CARE VIOLATIONS

- **BAHR, DOUGLAS F., M.D., NEW BRAUNFELS, TX, Lic. #H0149**
On June 8, 2007, the Board and Dr. Bahr entered into an Agreed Order requiring that he complete 12 additional continuing medical education hours in the area of record keeping; have his practice monitored by another physician; submit a written detailed plan addressing procedures to be implemented by Dr. Bahr to ensure that he effectively monitor and treat his nursing home patients; and pay an administrative penalty of \$1,000. The action was based on Dr. Bahr's failure to meet the standard of care with regard to an elderly nursing home patient in that he did not appropriately treat her ongoing diarrhea, vomiting and abdominal pain secondary to an infection with clostridium difficile.
- **BRUNKEN, ROBERT BYRT, M.D., DALLAS, TX, Lic. #C3593**
On June 8, 2007, the Board and Dr. Brunken entered into an Agreed Order whereby the Board accepted Dr. Brunken's voluntary and permanent surrender of his license. The action was based on Dr. Brunken's prescribing controlled substances to a patient for weight loss without performing a thorough physical examination and assessment, maintaining an adequate medical record, or taking corrective action upon learning that the patient was obtaining the same prescription simultaneously from another physician.
- **CAMPBELL, ROBERT DOUGLAS, M.D., DALLAS, TX, Lic. #C3003**
On June 8, 2007, the Board and Dr. Campbell entered into an Agreed Order assessing an

administrative penalty of \$1,000 and prohibiting Dr. Campbell from treating immediate family members, prescribing controlled substances or dangerous drugs to himself or immediate family members, or prescribing controlled substances or dangerous drugs with addictive potential or potential for abuse to any patient outside his current practice setting. The action was based on prescribing controlled substances to a family member for a nearly a three-year period without maintaining a medical record or record of the prescriptions.

- **RUGGIERO, MICHAEL F., D.O., BRYAN, TX, Lic. #H9144**
On June 8, 2007, the Board and Dr. Ruggiero entered into a two-year Agreed Order requiring the physician's practice be monitored by another physician; that he complete 20 hours of CME in each of the following: risk management, record keeping, and pain management; and that he transfer the care of patient J.K. to another physician. The action was based on Dr. Ruggiero's failure to comply with the Board's pain management rules regarding the care of patient J.K. and failure to refer the patient to psychotherapy or a psychiatrist when he began prescribing medications for the patient's depression and possible bipolar disorder.
- **TAYLOR, JILL ANN, D.O., KINGWOOD, TX, Lic. #K2296**
On May 10, 2007, the Board and Dr. Taylor entered into an Agreed Order requiring that she complete CME in gynecological care for primary care physicians, and that she pay an administrative penalty of \$1,000. The action was based on failure to adequately evaluate a patient receiving hormonal therapy and failure to obtain medical records from previous providers to confirm previous examinations and their results.
- **WORKMAN, MARK ALBERT, M.D., WICHITA FALLS, TX, Lic. #K8582**
On June 8, 2007, the Board and Dr. Workman entered into an Agreed Order requiring that Dr. Workman complete at least 10 hours of additional CME in risk management and that he pay an administrative penalty of \$1,000. The action was based on Dr. Workman's performance of a stellate ganglion block on the patient's wrong side.
- **REICHERT, OSCAR MICHAEL, D.O., MOUNT PLEASANT, TX, Lic. #F7088**
On June 8, 2007, the Board and Dr. Reichert entered into a five-year Mediated Agreed Order requiring that Dr. Reichert's practice be monitored by another physician, that he pass the Texas Medical Jurisprudence exam, that he pay a \$2,500 administrative penalty; that he complete an additional 15 hours per year of CME in medical record keeping and five hours per year in ethics. The action was based on Dr. Reichert's failure to maintain adequate medical records and failure to meet the standard care in the treatment of five patients by failing to appropriately assess, diagnoses, and act on laboratory results.

UNPROFESSIONAL CONDUCT VIOLATIONS

- **BIRMAN, ALEX, M.D., KENNEDALE, TX, Board Permit #30021243**
On June 8, 2007, the Board and Dr. Birman entered into an Agreed Order publicly reprimanding Dr. Birman and assessing a \$500 administrative penalty. The action was based on Dr. Birman's failure to report on his annual report for his Texas physician-in-training permit that he had been arrested since his last report. Dr. Birman's arrest was for possession of cocaine.
- **SHELDON, WILLIAM ROBERT, M.D., PLANO, TX, Lic. #F1999**
On April 13, 2007, the Board and Dr. Sheldon entered into a Mediated Agreed Order requiring Dr. Sheldon to provide reasonable access to his patients' charts for two years and a list of employees in his clinic who will observe Dr. Sheldon's examinations of female patients; to complete the Vanderbilt course on professional boundaries or an equivalent course; and to pay an administrative penalty of \$1,000.

VIOLATION OF PROBATION OR PRIOR ORDER

- **BASPED, BEAUFORD, D.O., FORT WORTH, TX, Lic. #E3813**
On June 8, 2007, the Board and Dr. Basped entered into an Agreed Order incorporating and superseding Dr. Basped's current order and allowing Dr. Basped an additional six months to complete requirements, passage of SPEX and completion of CPEP, as set out in his December 9, 2005, order. Failure to comply with requirements of the six-month extension shall result in revocation. The action was based on Dr. Basped's noncompliance with his current order.
- **CARTWRIGHT, GREGORY BRYAN, M.D., FORT WORTH, TX, Lic. #H7544**
On June 8, 2007, the Board and Dr. Cartwright entered into an Agreed Order requiring Dr. Cartwright to pay a \$1,000 administrative penalty and to provide the board a copy of his child support agreement. The action was based on Dr. Cartwright's violation of his 2004 agreed order for failure to participate in the Board's drug testing program and to provide verification of AA attendance. Dr. Cartwright was incarcerated from July 1 to July 7, 2006, based on allegations that he was in contempt of a child support order and therefore was unable to comply with his 2004 order during this time.
- **STAFFORD, NOVARRO CHARLES, M.D., HOUSTON, TX, Lic. #H5072**
On June 8, 2007, the Board and Dr. Stafford entered into an Agreed Order extending his February 2005, order by six months and requiring that Dr. Stafford obtain 10.5 hours of classroom CME in pediatric infectious diseases. The action was based on Dr. Stafford's failure to complete 40 hours of CME in pediatric infectious diseases as required by the 2005 order.

ACTION BASED ON CRIMINAL CONVICTIONS

- **CLAYTON, CHARLES THOMAS, M.D., THE WOODLANDS, TX, Lic. #F1452**
On June 8, 2007, the Board and Dr. Clayton entered into an Agreed Order revoking Dr. Clayton's license. The action was based on Dr. Clayton's conviction and incarceration in federal prison for filing false tax statements and failing to file income tax returns.
- **HALL-HERPIN, CALLIE, M.D., HOUSTON, TX, Lic. #K5306**
On June 8, 2007, the Board and Dr. Hall-Herpin entered into an Agreed Order revoking the license. The action was based on Dr. Hall-Herpin's conviction and incarceration in 2006 for conspiracy to unlawfully distribute and dispense controlled substances.
- **ROHR, ELIZABETH ANNE, M.D., ROANOKE, TX, Lic. #J3590**
On June 8, 2007, the Board issued a Final Order revoking Dr. Rohr's license. The action was based on Dr. Rohr's state felony conviction for Interference with Child Custody on April 13, 2006.

ACTION BASED ON PEER REVIEW ACTIONS

- **BRADY, WALTER EDWARD, D.O., MEXIA, TX, Lic. #C6122**
On June 8, 2007, the Board and Dr. Brady entered into an Agreed Order publicly reprimanding Dr. Brady and assessing a \$1,000 administrative penalty. The action was based on peer review action for Dr. Brady's failure to meet his responsibilities as the on-call physician by refusing to reexamine a patient upon the request of an R.N.

INADEQUATE MEDICAL RECORDS

- **O'NEAL, DON MARTIN, M.D., SULPHUR SPRINGS, TX, Lic. #E2769**
On June 8, 2007, the Board and Dr. O'Neal entered into an Agreed Order requiring that Dr. O'Neal's practice be monitored by another physician for one year and that he obtain five hours of CME in the area of medical record keeping. The action was based on inadequate medical records.

- **WHITT, WINSTON ARNETT, M.D., LUBBOCK, TX, Lic. #J4612**
On May 10, 2007, the Board and Dr. Whitt entered into an Agreed Order requiring that he successfully complete a medical record keeping course offered by the University of California San Diego Physician Assessment and Clinical Education (PACE) program, or an approved equivalent program, and pay an administrative penalty of \$2,000. The action was based on allegations that Dr. Whitt failed to adequately maintain medical records for his chronic pain patients between 2002 and 2004.
- **DESHMUKH, AVI TRIMBAK, MD., STEPHENVILLE, TX, Lic. #H1067**
On June 8, 2007, the Board and Dr. Deshmukh entered into a Mediated Agreed Order requiring that Dr. Deshmukh incorporate into at least two seminars addressing female urinary incontinence at which he is a speaker a 10-20 minute discussion regarding the use or non-use of cystoscopy after operative treatment of female urinary incontinence. The action based on inadequate medical records.

INAPPROPRIATE CONDUCT INVOLVING PHYSICIAN-PATIENT RELATIONSHIP

- **FARBER, STEVEN HOWARD, M.D., CONROE, TX, Lic. #F8102**
On June 8, 2007, the Board and Dr. Farber entered into an Agreed Order suspending Dr. Farber's license until he personally appears before the Board and provides clear and convincing evidence that he physically, mentally, and otherwise competent to safely practice medicine; and further requiring that for 10 years Dr. Farber abstain from drugs and alcohol; participate in the Board's drug testing program; and provide to the Board a list of all subsequent prescriptions and any subsequent orders for prohibited substances. The action was based on Dr. Farber's engaging in sexual contact and sexually inappropriate behavior with a patient; becoming financially involved with a patient; behaving in an abusive manner towards a patient that could be reasonably expected to adversely impact the quality of care rendered to a patient; nontherapeutic prescribing of medication; writing false or fictitious prescriptions for dangerous drugs; and inability to practice medicine with reasonable skill and safety to patients because of illness, drunkenness, and excessive use of drugs and narcotics.

IMPAIRMENT DUE TO ALCOHOL OR DRUGS

- **GUERRERO, TERESA TRUMBLE, M.D., THE WOODLANDS, TX, Lic. #H8471**
On June 8, 2007, the Board and Dr. Guerrero entered into a four-year Agreed Order requiring that Dr. Guerrero abstain from the consumption of prohibited substances; participate in the Board's drug testing program; continue quarterly care from her treating psychiatrist and monthly care from her treating licensed professional counselor; and participate in AA at least three times a week. The action was based on Dr. Guerrero's abuse of hydrocodone and Xanax and her March 2006 arrest for obtaining controlled substances by fraud with the charge later reduced to possession of controlled substance.
- **KETTERER, CYNTHIA LEE, M.D., HOUSTON, TX, Lic. K3771**
On June 8, 2007, the Board and Dr. Ketterer entered into an Agreed Order suspending Dr. Ketterer's license until she successfully completes the CPEP or PACE program. Upon her completion of either program the suspension shall be stayed and Dr. Ketterer will be placed on probation for 15 years and will be required to abstain from prohibited substances; participate in the Board's drug testing program; participate in AA five times a week; participate in weekly meetings of a county or state medical society committee on physician health and rehabilitation; continue to receive care and treatment from her current treating psychiatrist; not self-prescribe or prescribe to family members controlled substance or dangerous drugs with addictive potential or potential for abuse; and limit her medical practice to her current practice or a group or

institutional setting. The action was based on Dr. Ketterer's request that her suspension imposed on August 15, 2003, be lifted based on her two-year sobriety and current recovery program.

NONTHERAPEUTIC PRESCRIBING

- **LANGSJOEN, HANS ALFRED, M.D., GALVESTON, TX, Lic. #E2668**
On June 8, 2007, the Board and Dr. Langsjoen entered into a three-year Agreed Order requiring that Dr. Langsjoen not provide medical treatment to his family; not prescribe controlled substances or dangerous drugs with addictive potential or potential for abuse to himself or family members; abstain from consumption of prohibited substances for six months and participate in the Board's drug testing program during this time; obtain 10 hours of CME in ethics and record-keeping, pass the Texas Medical Jurisprudence exam; appear before the Board before reapplying to DEA or DPS to obtain controlled substance registrations; pay an administrative penalty of \$2,500; and not supervise or delegate prescriptive authority to PAs or APNs. The action was based on Dr. Langsjoen's ordering a large amount of controlled substances that were delivered directly to his residence to self-treat his restless leg syndrome and to be used by family members with ADD, kidney stones, and diabetes.

MINIMAL STATUTORY VIOLATIONS

The following licensees agreed to enter into orders with the Board for minimal statutory violations:

Asselstine, Robert Charles, M.D. Ontario, Canada, Lic. #J3732

Castro, Hector Jose, M.D., Merida, Yucatan, Mexico, Lic. #L6737

Chiriboga, Augusto, M.D., Mission, TX, Lic. #G7794

De Wet, Pieter Juan, M.D. Tyler, TX, Lic. #J0470

Kalchoff, William P., M.D., Houston, TX, Lic. #F2742

Mullanax, Milton Gayle, M.D. Arlington, TX, Lic. D1750

Rodriguez, Jose Esteban, M.D., Houston, TX, Lic. #H6934

PHYSICIAN ASSISTANTS

- **CASEY, DENNIS, P.A., Kingwood, TX, Lic. #PA-00129**
On May 18, 2007, the Physician Assistant Board and Mr. Casey entered into an three-year Agreed Order requiring that Mr. Casey obtain an annual evaluation from his supervising physician, complete a course in medical records, obtain five hours in ethics each year, and pay an administrative penalty of \$2,000. The action was based on Mr. Casey's failure to adequately evaluate and document patients' histories and physician examinations, and inappropriate providing of narcotics without documenting a medical justification.
- **McCARTY, RENE LUNDAY, P.A., Tyler, TX, Lic. #PA-01101**
On May 18, 2007, the Physician Assistant Board and Ms. McCarty entered into an Agreed Order requiring Ms. McCarty to pay an administrative penalty of \$500. The action was based on Ms. McCarty's treating patients from October 27, 2005, until February 5, 2006, without a supervising physician. Mitigating factors included Ms. McCarty's 20 years in practice without incident and her effort to provide health for minor ailments to low-income, uninsured patients.

- **WEBSTER, ROBERT LEON, P.A. Houston, TX, Lic. #PA-04057**
On May 18, 2007, the Physician Assistant Board and Mr. Webster entered into an three-year Agreed Order requiring that he obtain an annual evaluation from his supervising physician, complete a course in medical records, obtain five hours in ethics each year, and pay an administrative penalty of \$2,000. The action was based on Mr. Webster's failure to adequately evaluate and document patients' histories and physician examinations, and inappropriate providing of narcotics without documenting a medical justification.

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The Texas Medical Board, the state agency that regulates physicians, physician assistants, surgical assistants and acupuncturists, provides consumer protection through licensure, investigation and disciplinary action. The Board, under President Roberta M. Kalafut, D.O., and Executive Director Donald W. Patrick, M.D., J.D., and mandated by Senate Bill 104 of the 78th Legislature and S.B. 419 of the 79th Legislature, is strengthening and accelerating the disciplinary process for licensees who fail to meet the required standards of professional proficiency and behavior. Information on filing a complaint is on the agency web site at www.tmb.state.tx.us or by calling (800) 201-9353.