

## **Texas Medical Board**

### **News Release**

#### **FOR IMMEDIATE RELEASE**

**Tuesday, October 10, 2006**

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### **Medical Board Disciplines 21 Doctors**

At its October 5-6 meeting, the Texas Medical Board took disciplinary action against 21 licensed physicians.

Actions included three violations based on quality of care; four actions based on unprofessional conduct; one action based on inappropriate conduct involving physician-patient relationships; four actions based on inadequate medical records; one action based on impairment due to physical or mental condition; one action based on impairment due to alcohol or drugs; one action based on violations of probation or prior orders; and six minimal statutory violations. Administrative penalties totaling \$23,500 were assessed.

(This release also includes listings for several actions from the August 24-25 board meeting that were omitted from the August 31 release.)

### **New Licenses Issued**

The board issued 315 licenses at the October 5-6 meeting.

### **Proposed Rule Changes**

The following rule changes will be published in the *Texas Register* for comment:

Proposed amendments to Chapter 183, **Acupuncture**, regarding the definition of an acceptable approved acupuncture school, demonstration of an applicant's ability to communicate in English, cancellation of licenses after expiration, and continuing acupuncture education.

Proposed amendments to Chapter 187, **Procedural Rules** to include amendments to 187.28 Discovery relating to testifying expert witnesses.

### **Disciplinary Actions**

The following are summaries of the Board actions and were taken based on the types of violations listed. The full text of the Board orders will be available on the Board's web site at [www.tmb.state.tx.us](http://www.tmb.state.tx.us) about 10 days after the Board meeting. The orders provide all information that is public regarding the facts of the case and violations of the law.

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

### **QUALITY OF CARE VIOLATIONS:**

- **BAKER, MERRIMON WALTERS, M.D., CLEVELAND, TX, Lic. #G4807**  
On October 6, 2006, the Board and Dr. Baker entered into an Agreed Order suspending his medical license, staying the suspension and placing him on probation under the following terms and conditions: Dr. Baker may not perform or be present at any spine surgery; his practice is to be monitored by another physician for three years; he is required to abstain from consuming prohibited substances, including alcohol and drugs not prescribed for him, for one year; he is required to participate in the board's program for testing for drugs and alcohol; and he may not supervise physician assistants or advanced practice nurses. The action was based on allegations of standard-of-care violations in surgical and post-surgical patients and in post-operative care management, and allegations of a lack of documentation in medical records to indicate the basis for medical decision making, rationales for surgical procedures or to provide for continuity of care.
- **DAVE, PRAMESH CHANDRAKANT, M.D., IRVING, TX, Lic. #K0014**  
On October 6, 2006, the Board and Dr. Dave entered into an Agreed Order requiring that his practice be monitored by another physician for two years, that he attend 50 hours per year of continuing medical education, at least 10 of which shall be in each of the areas of the treatment of infections and medical records, and assessing an administrative penalty of \$2,000. The action was based on allegations that Dr. Dave failed to timely follow up lab results and prescribe antibiotics for a nursing home patient.
- **DICKEY, JOHN COKE, M.D., LUBBOCK, TX, Lic. #C7584**  
On October 6, 2006, the Board and Dr. Dickey entered into an Agreed Order requiring that his practice be monitored by another physician who will review the records for Dr. Dickey's next 30 surgical cases, and assessing an administrative penalty of \$1,000. The action was based on allegations that Dr. Dickey failed to appropriately assess a patient's condition following gynecological surgery.

- **VICTORES, RUBENDARIO, M.D., BEAUMONT, TX, Lic. #H9727**  
On August 25, 2006, the Board and Dr. Victores entered into an Agreed Order requiring Dr. Victores to complete 40 hours of continuing medical education divided among the subject areas of high-risk obstetrics, post-operative management and record-keeping, and assessing an administrative penalty of \$5,000. The action was based on allegations that Dr. Victores failed to meet the standard of care in his performance of gynecological surgery for two patients and failed to appropriately document an indication for a vacuum procedure for a third.

#### **UNPROFESSIONAL CONDUCT VIOLATIONS:**

- **FABRE, LOUIS FERNAND, M.D., HOUSTON, TX, Lic. #D5986**  
On October 6, 2006, the Board and Dr. Fabre entered into a Mediated Agreed Order publicly reprimanding Dr. Fabre and requiring that he have an independent protocol supervisor and have all research protocols approved by two institutional review boards; that he complete courses of at least 10 hours in each of medical records and risk management and assessing an administrative penalty of \$5,000. Dr. Fabre performs medication clinical trials for pharmaceutical companies. The action was based on allegations of failure to supervise adequately the activities of those acting under his supervision during a clinical trial for the drug Clozaril for which Dr. Fabre enlisted V.Z. (deceased), a forty-seven year old male, to participate.
- **GOODMAN, JOHN WILLIS, M.D., RUSK, TX, Lic. #D2437**  
On October 6, 2006, the Board and Dr. Goodman entered into an Agreed Order requiring that he have a chaperone in the room any time he performs a physical examination on any patient and prohibiting him from performing genital or rectal examinations. The action was based on allegations that Dr. Goodman conducted inappropriate genital examinations on several inmates in 1998.
- **MAESE, FEDERICO, M.D., DALLAS, TX, Lic. #J4319**  
On October 6, 2006, the Board and Dr. Maese entered into an Agreed Order requiring that he pass the medical jurisprudence examination within one year, that he complete a course in medical office management of at least 20 hours and assessing an administrative penalty of \$2,500. The action was based on allegations that Dr. Maese failed to timely provide triplicate prescriptions to a pharmacy.
- **SUNIO, FORTUNATO O., M.D., DENTON, TX, Lic. #D5646**  
On October 6, 2006, the Board and Dr. Sunio entered into a Negotiated Agreed Order requiring that he have a chaperone any time he performs a physical examination on a female patient; that he successfully complete the professional boundaries course offered by the Vanderbilt Medical Center for Professional Health or an approved equivalent program; and assessing an administrative penalty of \$1,000. The action was based on allegations that Dr. Sunio did not follow protocol when conducting physical examinations on two teenage patients at Terrell State Hospital.

#### **INAPPROPRIATE CONDUCT INVOLVING PHYSICIAN-PATIENT RELATIONSHIP:**

- **DONOVITZ, GARY STEVEN, M.D., ARLINGTON, TX, Lic. #F6580**  
On October 6, 2006, the Board and Dr. Donovitz entered into an Agreed Order requiring that he successfully complete either the professional boundaries course offered by the Vanderbilt Medical Center for Professional Health or the similar course offered by the University of California San Diego Physician Assessment and Clinical Education (PACE) program, and assessing an administrative penalty of \$5,000. The action was based on allegations that Dr. Donovitz had an affair with a person who was his patient and employee.

#### **INADEQUATE MEDICAL RECORDS VIOLATIONS:**

- **BURGESSER, MARY FRANCES, M.D., AMARILLO, TX, Lic. #K4005**  
 On October 6, 2006, the Board and Dr. Burgesser entered into an Agreed Order requiring that her practice be monitored by another physician for two years; that she complete a course in medical records; and assessing an administrative penalty of \$1,000. The action was based on allegations that Dr. Burgesser's medical records for her chronic pain patients did not have full information as required for chronic pain patients.
- **MOLIVER, CLAYTON L., M.D., WEBSTER, TX, Lic. #G8291**  
 On August 25, 2006, the Board and Dr. Moliver entered into an Agreed Order requiring that he specifically note the date and time that each medical record is written or dictated, as well as the date and time of any amendment, supplementation, change or correction, and assessing an administrative penalty of \$1,000. The action was based on allegations that Dr. Moliver made amendments, supplements, changes or corrections in one patient's medical record that were not made contemporaneously with the act or observation and that he failed to indicate the time and date of the amendments, supplementations, changes or corrections.
- **NIKKO, PHAN ANTHONY, M.D., HOUSTON, TX, Lic. #K5639**  
 On October 6, 2006, the Board and Dr. Nikko entered into an Agreed Order requiring that his medical records for the previous quarter be reviewed by another physician; that he complete a course in record keeping/risk management of at least 10 hours; and assessing an administrative penalty of \$1,000. If the monitor report is unfavorable, Dr. Nikko's practice will continue to be monitored quarterly for a period of one year. If the report is favorable, the order will terminate on completion of the course and payment of the penalty. The action was based on allegations that Dr. Nikko failed to appropriately document patient consent and/or discussion of risks and benefits of laser treatment.
- **SAVAGE, CYNTHIA CATHRYN ALMY, M.D. (formerly Cynthia Cathryn Almy Howard), HOUSTON, TX, Lic. #J1444**  
 On October 6, 2006, the Board and Dr. Savage entered into an Agreed Order requiring that she complete a course in medical records of at least 20 hours in duration. The action was based on allegations that Dr. Savage failed to document the reason for the delay in transferring a patient to another hospital.
- **TREAT, STEVEN PAUL, D.O., FRISCO, TX, Lic. #L7903**  
 On October 6, 2006, the Board and Dr. Treat entered into an Agreed Order requiring that he complete a course in medical records of at least 10 hours and assessing an administrative penalty of \$1,000. The action was based on allegations that Dr. Treat failed to maintain adequate medical records for one patient that he treated in the emergency room.

**IMPAIRMENT DUE TO PHYSICAL OR MENTAL CONDITION:**

- **ANDREWS, WILLIAM ALAN, M.D., FRIENDSWOOD, TX, Lic. #F6394**  
 On October 6, 2006, the Board and Dr. Andrews entered into an Agreed Order requiring that he obtain a complete evaluation from a board-appointed psychiatrist to assess his fitness to practice medicine in light of his medical problems; that he successfully complete either the professional boundaries course offered by the Vanderbilt Medical Center for Professional Health or the similar course offered by the University of California San Diego Physician Assessment and Clinical Education (PACE) program; and assessing an administrative penalty of \$500. The action was based on allegations that Dr. Andrews committed a boundary violation by inquiring about a female patient's marital status and telling her that he would like to socialize with her in the future, and on allegations that Dr. Andrews' medical problems, including depression, anxiety and severe back pain, and the medications prescribed for him for these conditions, may affect his ability to safely practice medicine.

**IMPAIRMENT DUE TO ALCOHOL OR DRUGS:**

- **DERUSHA, MARTIN ALLYN JR., D.O., ARLINGTON, TX, Lic. #K0454**  
On October 6, 2006, the Board and Dr. Derusha entered into a 10-year Agreed Order suspending his medical license for 90 days and then requiring that he abstain from consuming prohibited substances, including alcohol and drugs not prescribed for him; participate in the board's program for testing for drugs and alcohol; continue receiving care from his current treating psychiatrist and continue to be monitored by his evaluating psychiatrist; participate in the activities of Alcoholics Anonymous at least five times per week; continue to participate in the activities of a county or state medical society committee on physician health and rehabilitation; and have a practice mentor to meet with him on a monthly basis. The action was based on allegations that Dr. Derusha violated his previous confidential rehabilitation order by consuming alcohol, after which he was arrested for DWI.

**VIOLATIONS OF PROBATION OR PRIOR ORDER:**

- **WELDON, LLOYD KENT, D.O., FORT WORTH, TX, Lic. #E6947**  
On October 6, 2006, the Board and Dr. Weldon entered into a Modified Agreed Order modifying his current board order by adding one provision assessing an administrative penalty of \$500 and a second provision that would result in a 30-day suspension of Dr. Weldon's medical license if he fails to comply with the continuing medical education requirements of his current order. The action was based on allegations that Dr. Weldon failed to timely complete all of the continuing medical education required by his current order.

**MINIMAL STATUTORY VIOLATIONS:**

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

Boehme, Donna Marie, M.D., San Antonio, TX, Lic. #G8829

Carreno-Caceres, Antonio, M.D., Corpus Christi, TX, Lic. #D1397

Galt, Sheryl Dubois, M.D., Kerrville, TX, Lic. #K3733

Gogel, Brian Matthew, M.D, Dallas, TX, Lic. #K2156

\*Gustafson, Wesley Clifford, M.D., Houston, TX, Lic. #C9002

Roth, Gregory Scott, M.D., San Antonio, TX, Lic. #K1916

Shalit, Moses N., M.D., New York, NY, Lic. #F0308

\*August 25 action

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](http://www.tmb.state.tx.us) or by calling (800) 201-9353.