

## Texas Medical Board Press Release

### FOR IMMEDIATE RELEASE

June 25, 2020

Media contact: Jarrett Schneider, 512-305-7018

Customer service: 512-305-7030 or 800-248-4062

### TMB disciplines 46 physicians at June meeting, adopts rule changes

At its June 12, 2020 meeting, the Texas Medical Board disciplined 46 licensed physicians.

The disciplinary actions included: ten orders related to quality of care violations, seven orders related to unprofessional conduct, four voluntary surrenders/revocations, four revocations, two suspensions, two orders related to nontherapeutic prescribing, two orders related to improper supervision or delegation, two orders related to peer review action, four orders related to other states' actions, two orders related to violation of prior order, two orders related to violation of Board rules, two orders related to Texas Physician Health Program violation, two orders related to impairment, and one order related to inadequate medical records. The Board also ratified an order regarding a perfusionist and nine cease and desist orders.

The Board issued 180 physician licenses at the June meeting, bringing the total number of physician licenses issued in FY20 to 3,835.

### RULE CHANGES ADOPTED

#### CHAPTER 166. PHYSICIAN REGISTRATION

The amendments to **§166.2**, concerning Continuing Medical Education, requires at least two hours of continuing medical education (CME) training in topics related to the prescription of opioids and other controlled substances. The amendments further require the completion of a course in human trafficking prevention awareness.

#### CHAPTER 170. PAIN MANAGEMENT

Amends the title of 22 TAC Chapter 170 to "Prescription of Controlled Substances."

The amendments to **§170.2**, concerning Definitions, amends the definitions of "acute pain," "chronic pain," and adds a new definition for "post-surgical, post-procedure, persistent non-chronic pain."

The amendments to **§170.3**, concerning Minimum Requirements for the Treatment of Chronic Pain, requires a review of the Prescription Monitoring Program (PMP) prior to the issuance of a prescription for opioids, benzodiazepines, barbiturates, and carisoprodol.

New **Subchapter C, §170.9**, Prescription Monitoring Program Check, clarifies when and under what circumstances a physician is required to check the PMP before issuing certain controlled substances.

#### CHAPTER 172. TEMPORARY AND LIMITED LICENSES

The amendments to **§172.13**, concerning Conceded Eminence, adds language to clarify the requirements for and process to obtain conceded eminence.

#### CHAPTER 175. FEES AND PENALTIES

The amendments to **§175.1**, concerning Application and Administrative Fees, adds an application and certificate fee for a Radiologist Assistant Certificate in the amount of \$140.00, and also adds a fee for an application for a temporary certificate in the amount of \$140.00.

The amendments to **§175.2**, concerning Registration and Renewal Fees, adds a fee for biennial renewal of a Radiologist Assistant Certificate, in the amount of \$100.00. Radiologist Assistant is a new certificate type mandated by, and in accordance with, House Bill 1504 (86th Regular Legislative Session).

#### **CHAPTER 178. COMPLAINTS**

The amendments to **§178.8**, concerning Appeals, adds language requiring that the board receive a complainant's appeal no later than 90 days after the complainant's receipt of notice of the board's dismissal of the complaint.

#### **CHAPTER 180. TEXAS PHYSICIAN HEALTH PROGRAM AND REHABILITATION ORDERS**

Amends the title of 22 TAC Chapter 180 to "Texas Physician Health Program."

The amendments to **§180.1**, concerning Purpose, describes the authority for rulemaking and the purpose of the Texas Physician Health Program under Chapter 167 of the Texas Occupations Code.

The amendments to **§180.2**, concerning Definitions, updates existing definitions and adds new definitions in order to maintain consistency within this chapter.

The amendments to **§180.3**, concerning Texas Physician Health Program, clarifies and updates existing language to ensure consistency with current program processes and TXPHP Governing Board directives.

The amendments to **§180.4**, concerning Operation of Program, clarifies and updates existing language to ensure consistency with current program processes and TXPHP Governing Board directives.

The repeal of **§180.7**, concerning Rehabilitation Orders, eliminates outdated rule language that was historically necessary when TXPHP was created in 2009.

#### **CHAPTER 195. PAIN MANAGEMENT CLINICS**

The amendments to **§195.1**, concerning Definitions, adds a new definition for "personnel", distinguishing personnel from physicians.

The amendments to **§195.4**, concerning Operation of Pain Management Clinics, adds language distinguishing personnel from physicians who may be employed or contracted to provide medical services at a pain clinic.

### **DISCIPLINARY ACTIONS**

#### **QUALITY OF CARE**

##### **Cao, Hiep Andrew, M.D., Lic. No. N8770, Garland**

On June 12, 2020, the Board and Andrew Hiep Cao, M.D., entered into an Agreed Order restricting his license under the following conditions: shall not engage in the practice of treating patients for chronic pain as defined by Board rule; shall not possess, administer, or prescribe Schedule II controlled substances in Texas other than prescriptions written to him by a licensed provider for personal use; shall not be permitted to supervise or delegate prescriptive authority to a physician assistant or advanced practice nurse or supervise a surgical assistant; within one year and three attempts pass the Medical Jurisprudence Exam; have his practice monitored by another physician for four consecutive monitoring cycles; within 60 days submit a pain management contract for review and approval by the Board; and within three years complete the prescribing course offered by the University of California San Diego Physician Assessment and Clinical Education (PACE) program. The Board found Dr. Cao failed to obtain or document adequate patient history or assessment for 15 patients he treated for chronic pain, failed to appropriately monitor patients' use of controlled substances and failed to document adequate medical rationale for the pain medications he prescribed.

##### **Cherian, Rany Antony, M.D., Lic. No. G6918, Bryan**

On June 12, 2020, the Board and Rany Anthony Cherian, M.D., entered into an Agreed Order requiring him to within one year complete at least 24 hours of CME, divided as follows: 8 hours in prescribing controlled substances, 8 hours in

medical recordkeeping and 8 hours in drug-seeking behavior; and within 60 days pay an administrative penalty of \$3,000. The Board found Dr. Cherian prescribed Adderall to a patient without appropriately monitoring or maintaining adequate medical records of the treatment.

**Choudhri, Mobeen, M.D., Lic. No. N4346, Bellaire**

On June 12, 2020, the Board and Mobeen Choudhri, M.D., entered into an Agreed Order requiring her to within one year and three attempts pass the Medical Jurisprudence Exam; within one year complete at least 36 hours of in-person CME, divided as follows: 12 hours in supervision and delegation, eight hours in pain management, eight hours in risk management and eight hours in ethics; and within 60 days pay an administrative penalty of \$3,000. The Board found Dr. Choudhri violated the standard of care for four chronic pain patients, failed to adequately supervise her midlevel providers, and failed to maintain the registration for two pain management clinics.

**Cortes, Wilberto Gil, M.D., Lic. No. M8612, Houston**

On June 12, 2020, the Board and Wilberto Gil Cortes, M.D., entered into an Agreed Order requiring him to within 60 days pay a refund of \$8,800 to the patient at issue; within one year and three attempts pass the Medical Jurisprudence Exam; and within one year complete at least 12 hours of CME, divided as follows: four hours in management of physician-patient communications, four hours in risk management and four hours in recognizing and treating surgical complications. The Board found Dr. Cortes failed to meet the standard of care with respect to a patient he performed a liposuction procedure on by failing to properly examine the patient and adequately care for the patient post-operatively after the patient experienced complications.

**Launius, John A., M.D., Lic. No. H2149, Lewisville**

On June 12, 2020, the Board and John A. Launius, M.D., entered into an Agreed Order requiring him to within one year complete at least 12 hours of CME, divided as follows: eight hours in diagnosis and treatment of ADHD and four hours in patient communication, risk management, and dealing with difficult patients; and within 60 days pay an administrative penalty of \$3,000. The Board found Dr. Launius failed to meet the standard of care for a patient he treated for ADHD, anxiety and obsessive compulsive disorder.

**McBath, J. Mark, M.D., Lic. No. G8265, Houston**

On June 12, 2020, the Board and J. Mark McBath, M.D., entered into an Agreed Order requiring him to within one year and three attempts pass the Medical Jurisprudence Exam; within one year complete the medical recordkeeping course offered by the University of California San Diego Physician Assessment and Clinical Education (PACE) program; and within 60 days pay an administrative penalty of \$2,000. The Board found Dr. McBath did not keep adequate medical records while prescribing medications for weight loss. Dr. McBath did not document a history or physical, nor did he adequately document his interactions with the patient.

**Mettauer, Mark Menefee, M.D., Lic. No. K6486, The Woodlands**

On June 12, 2020, the Board and Mark Menefee Mettauer, M.D., entered into an Agreed Order requiring him to within one year complete at least eight hours of CME in post-operative care. The Board found Dr. Mettauer appropriately prepared a patient for surgery but should have taken the patient back for immediate exploration due to an excessive amount of post-operative bleeding.

**Muscat, Joseph Otto, IV, M.D., Lic. No. H8276, Kingwood**

On June 12, 2020, the Board and Joseph Otto Muscat, IV, M.D., entered into an Agreed Order requiring him to within one year complete at least 16 hours of CME, divided as follows: eight hours in pediatric orthopedic patients and eight hours in risk management. The Board found Dr. Muscat failed to meet the standard of care for a teenage patient. Dr. Muscat did not properly treat the patient's complex lateral collateral ligament injury.

**Nasur, Ali Mohamed, M.D., Lic. No. P4685, El Paso**

On June 12, 2020, the Board and Ali Mohamed Nasur, M.D., entered into an Agreed Order requiring him to within one year complete at least 12 hours of CME, divided as follows: eight hours in cardiac catheterization laboratory complications and four hours in risk management; and within 60 days pay an administrative penalty of \$1,000. The

Board found Dr. Nasur failed to meet the standard of care for one patient for whom he performed a cardiac catheterization and failed to timely identify and treat a stroke that occurred.

**Spinks, David Wayne, D.O., Lic. No. F4557, Pasadena**

On June 12, 2020, the Board and David Wayne Spinks, D.O., entered into an Agreed Order requiring him to have his practice monitored by another physician for six consecutive monitoring cycles; within one year complete the medical recordkeeping course offered by the University of California San Diego Physician Assessment and Clinical Education (PACE) program; and within one year complete at least 16 hours of CME, divided as follows: eight hours in risk management and eight hours in treating chronic pain patients. The Board found Dr. Spinks failed to meet the standard of care in treating a patient to whom he prescribed carisoprodol, Tramadol and Ambien, and failed to appropriately monitor the patient for abuse.

**UNPROFESSIONAL CONDUCT**

**Garcia, Ronald K., M.D., Lic. No. H2394, San Antonio**

On June 12, 2020, the Board and Ronald K. Garcia, M.D., entered into an Agreed Order publicly reprimanding Dr. Garcia and requiring him to within 90 days reimburse the patient of the principal amount still owed to the patient, less interest; within one year and three attempts pass the Medical Jurisprudence Exam; within one year complete at least 12 hours of CME, divided as follows: four hours in ethics and eight hours in physician-patient boundaries; and within 60 days pay an administrative penalty of \$5,000. The Board found Dr. Garcia committed unprofessional conduct by becoming financially involved with a patient. Dr. Garcia admitted to borrowing \$13,000 from an established patient after the patient offered to loan him money when he expressed he was facing financial difficulties. Dr. Garcia has yet to repay the patient, and still owes approximately \$11,000.

**Gonzalez, Mario G., M.D., Lic. No. P4959, North Richland Hills**

On June 12, 2020, the Board and Mario G. Gonzalez, M.D., entered into an Agreed Order under the following terms: for a period of three years, anytime Dr. Gonzalez has a physician-patient encounter with a female patient, including any encounter conducted by electronic means including telemedicine, he shall have a chaperone who is able to directly observe during the encounter; and within one year complete the professional boundaries course offered by the University of California San Diego Physician Assessment and Clinical Education (PACE) program. The Board found Dr. Gonzalez displayed unprofessional conduct by making inappropriate comments towards two female patients.

**Habib, Muhammad Farhan, M.D., Lic. No. BP10056176, Amarillo**

On June 12, 2020, the Board and Muhammad Farhan Habib, M.D., entered into an Agreed Order publicly reprimanding Dr. Habib. The Board found Dr. Habib was suspended and then resigned from his residency program following his arrest for a third-degree felony charge of Continuous Violence Against the Family. Dr. Habib entered into a Domestic Violence Early Intervention Program.

**Horndeski, Gary Michael, M.D., Lic. No. G2390, Sugar Land**

On June 12, 2020, the Board and Gary Michael Horndeski, M.D., entered into an Agreed Order requiring him to within 60 days pay an administrative penalty of \$1,000. The Board found Dr. Horndeski's website included unverifiable claims like "best plastic surgeon," and "most innovative."

**Moreno, Robert A., M.D., Lic. No. H7470, El Paso**

On June 12, 2020, the Board and Robert A. Moreno, M.D., entered into an Agreed Order requiring him to comply with all terms of the Settlement Agreement issued by the U.S. Attorney's Office for the Western District of Texas on August 28, 2019. The Board found Dr. Moreno entered into a settlement agreement which arose from submitting false billing claims to federal health care programs.

**Novak, Jacob John, M.D., Lic. No. K2766, Lubbock**

On June 12, 2020, the Board and Jacob John Novak, M.D., entered into an Agreed Consent Order publicly reprimanding Dr. Novak and requiring him to comply with all ordered probation requirements from the Florida County Court of the

Fifteenth Judicial Circuit. The Board found Dr. Novak was arrested and later convicted of battery of a resort and spa housekeeper in Florida in 2019.

**Ortiz, Edward Hurtado, M.D., Lic. No. M4411, Austin**

On June 12, 2020, the Board and Edward Hurtado Ortiz, M.D., entered into an Agreed Order requiring him to within 30 days undergo an independent medical evaluation by a board certified psychiatrist approved by the Board and follow all recommendations for care and treatment; limit his practice to a group or an institutional setting approved in advance; have his practice monitored by another physician; within one year and three attempts pass the Medical Jurisprudence Exam; and within one year complete at least eight hours of CME in ethics. The Board found Dr. Ortiz improperly manipulated some sleep study reports.

**VOLUNTARY SURRENDER/REVOICATION**

**Coleman, Paul H., M.D., Lic. No. H5757, Odessa**

On June 12, 2020, the Board and Paul H. Coleman, M.D., entered into an Agreed Order of Voluntary Surrender in which Dr. Coleman agreed to voluntarily surrender his Texas medical license in lieu of further disciplinary proceedings. The Board found Dr. Coleman pled guilty to three felony counts of possession of child pornography and was sentenced to 10 years' imprisonment.

**Maxvill, Charles T., D.O., Lic. No. F5299, Lake Worth**

On June 12, 2020, the Board and Charles T. Maxvill, D.O., entered into an Agreed Order of Voluntary Surrender in which Dr. Maxvill agreed to voluntarily surrender his Texas medical license in lieu of further disciplinary proceedings. The Board found Dr. Maxvill pled Nolo Contendere to a misdemeanor offense of Public Lewdness and received a deferred adjudication of guilt, placing him on misdemeanor community supervision for 24 months. The charges were based on allegations that, while on duty at Weatherford Healthcare, Dr. Maxvill offensively touched a nurse that was providing patient care.

**Oates, Myrtle, M.D., Lic. No. J3565, Houston**

On June 12, 2020, the Board and Myrtle Oates, M.D., entered into an Agreed Order of Voluntary Surrender in which Dr. Oates agreed to voluntarily surrender her Texas medical license in lieu of further disciplinary proceedings. The Board found that on or about November 21, 2019, Dr. Oates pleaded nolo contendere to and received an Order of Deferred Adjudication for unlawful practice of medicine, a 3rd degree felony, in the 230<sup>th</sup> District Court of Harris County, Texas.

**Rodriguez, Victor M., M.D., Lic. No. K1030, Houston**

On June 12, 2020, the Board and Victor M. Rodriguez, M.D., entered into an Agreed Order of Voluntary Surrender in which Dr. Rodriguez agreed to voluntarily surrender his Texas medical license in lieu of further disciplinary proceedings. Dr. Rodriguez was under investigation for nontherapeutic prescribing and standard of care violations.

**REVOICATION**

**Berry, Alison Joan, M.D., Lic. No. F3757, San Antonio**

On June 12, 2020, the Board entered a Default Order regarding Alison Joan Berry, M.D., which revoked her Texas medical license. On August 28, 2019, the Board filed a Complaint with the State Office of Administrative Hearings (SOAH), alleging unprofessional conduct. Dr. Berry failed to appear at the SOAH hearing and no responsive pleading was ever filed by Dr. Berry. The Board granted a Determination of Default and Dr. Berry's license was revoked by Default Order. This order resolves a formal complaint filed at SOAH. Dr. Berry has 25 days from the service of the order to file a motion for rehearing.

**Easter, Thomas Glenn, II, M.D., Lic. No. G7801, El Paso**

On June 12, 2020, the Board entered a Default Order regarding Thomas Glenn Easter, II, M.D., which revoked his Texas medical license. On August 28, 2019, the Board filed a Complaint with the State Office of Administrative Hearings (SOAH), alleging unprofessional conduct. Dr. Easter failed to appear at the SOAH hearing and no responsive pleading was

ever filed by Dr. Easter. The Board granted a Determination of Default and Dr. Easter's license was revoked by Default Order. This order resolves a formal complaint filed at SOAH. Dr. Easter has 25 days from the service of the order to file a motion for rehearing.

**Hernandez, Manuel, M.D., Lic. No. C5088, El Paso**

On June 12, 2020, the Board entered a Default Order regarding Manuel Hernandez, M.D., which revoked his Texas medical license. On December 14, 2019, the Board filed a Complaint with the State Office of Administrative Hearings (SOAH), alleging unprofessional conduct. Dr. Hernandez failed to appear at the SOAH hearing and no responsive pleading was ever filed by Dr. Hernandez. The Board granted a Determination of Default and Dr. Hernandez' license was revoked by Default Order. This order resolves a formal complaint filed at SOAH. Dr. Hernandez has 25 days from the service of the order to file a motion for rehearing.

**Lancaster, Chase Edward, M.D., Lic. No. BP10062976, Gilbert, AZ**

On June 12, 2020, the Board entered a Default Order regarding Chase Edward Lancaster, M.D., which revoked his Texas physician in training permit. On January 14, 2020, the Board filed a Complaint with the State Office of Administrative Hearings (SOAH), alleging unprofessional conduct. Dr. Lancaster failed to appear at the SOAH hearing and no responsive pleading was ever filed by Dr. Lancaster. The Board granted a Determination of Default and Dr. Lancaster's license was revoked by Default Order. This order resolves a formal complaint filed at SOAH. Dr. Lancaster has 25 days from the service of the order to file a motion for rehearing.

**SUSPENSION**

**Fiallo, Francisco Julian, M.D., Lic. No. R0393, Pampa**

On June 12, 2020, the Board and Francisco Julian Fiallo, M.D., entered into an Agreed Order suspending Dr. Fiallo's license until such a time as he requests in writing to have the suspension stayed or lifted and personally appears before the Board to provide evidence that adequately indicates he is physically, mentally, and otherwise competent to safely practice medicine; abstain from the consumption of prohibited substances as defined by the Order; participate in the Board's drug testing program; within 30 days obtain an independent medical evaluation by a board certified psychiatrist approved by the Board and follow all recommendations for care and treatment; continue psychiatric treatment no less than once a month; participate in the activities of Alcoholics Anonymous no less than five times a week; and shall not be permitted to supervise or delegate prescriptive authority to a physician assistant or advanced practice nurse or supervise a surgical assistant. The Board found Dr. Fiallo was terminated from the Texas Physician Health Program for violating his monitoring agreement. Dr. Fiallo has been testing under an interim monitoring agreement with the Board; however, there was no evidence from a treating provider that he is safe to return to practice at this time.

**Quintana, Oscar Francisco, M.D., Lic. No. K5672, Houston**

On June 12, 2020, the Board and Oscar Francisco Quintana, M.D., entered into an Agreed Order suspending Dr. Quintana's license until such a time as he requests in writing to have the suspension stayed or lifted and personally appears before the Board to provide evidence that adequately indicates he is physically, mentally, and otherwise competent to safely practice medicine; within 30 days obtain an independent medical evaluation by a board certified psychiatrist approved by the Board and follow all recommendations for care and treatment; abstain from the consumption of prohibited substances as defined by the Order; participate in the Board's drug testing program; participate in the activities of Alcoholics Anonymous no less than five times a week; and shall not be permitted to supervise or delegate prescriptive authority to a physician assistant or advanced practice nurse or supervise a surgical assistant. The Board found Dr. Quintana has a history of impairment related to substance abuse issues and has recently relapsed.

**NONTHERAPEUTIC PRESCRIBING**

**Eidman, Dan Kelly, M.D., Lic. No. E4316, Houston**

On June 12, 2020, the Board and Dan Kelly Eidman, M.D., entered into an Agreed Order requiring him to have his practice monitored by another physician for eight consecutive monitoring cycles; within one year complete at least 16

hours of in-person CME, divided as follows: eight hours in medical recordkeeping and eight hours in prescribing opioids; and within 60 days pay an administrative penalty of \$3,000. The Board found Dr. Eidman failed to meet the standard of care in his prescribing to four chronic pain patients without adequately supporting his prescriptions, treatment plans or monitoring of patients. Dr. Eidman failed to document his rationale for, as well as the dose, frequency and duration of the controlled substances and dangerous drugs he prescribed for the patients.

**Skie, Gregory, M.D., Lic. No. G5617, Arlington**

On June 12, 2020, the Board and Gregory Skie, M.D., entered into an Agreed Order requiring him to within seven days surrender his DEA controlled substances registration certificates and shall not reregister without prior Board approval; shall not possess, administer, or prescribe controlled substances in Texas other than prescriptions written to him by a licensed provider for personal use; limit his practice to a group or institutional setting approved in advance; and within one year complete the medical recordkeeping course offered by the University of California San Diego Physician Assessment and Clinical Education (PACE) program. The Board found Dr. Skie nontherapeutically prescribed to 18 patients without documenting adequate medical justification for the amount of medication prescribed, and violated Board rules for treating chronic pain.

**IMPROPER SUPERVISION OR DELEGATION**

**Morris, Michael W., M.D., Lic. No. F0262, Humble**

On June 12, 2020, the Board and Michael W. Morris, M.D., entered into an Agreed Order publicly reprimanding Dr. Morris and requiring him to within one year and three attempts pass the Medical Jurisprudence Exam; within one year complete at least 16 hours of CME, divided as follows: 12 hours in supervision and delegation and four hours in risk management; and within 60 days pay an administrative penalty of \$3,000. The Board found Dr. Morris failed to adequately supervise his delegate and unknowingly aided and abetted her unlicensed practice of medicine. Dr. Morris' delegate performed Botox injections and other procedures on at least one patient who had not been evaluated by a physician or other qualified midlevel provider.

**Weeks, Lyle David, M.D., Lic. No. E4959, El Paso**

On June 12, 2020, the Board and Lyle David Weeks, M.D., entered into an Agreed Order publicly reprimanding Dr. Weeks and requiring him to within one year and three attempts pass the Medical Jurisprudence Exam; within one year complete at least 20 hours of CME, divided as follows: eight hours in ethics, 12 hours in risk management, with at least four hours in supervision or delegation; and within 60 days pay an administrative penalty of \$2,000. The Board found Dr. Weeks failed to ensure patients were seen and evaluated by a properly licensed provider prior to the administration of nonsurgical medical cosmetic procedures.

**PEER REVIEW ACTION**

**Cantu, Dennis David, M.D., Lic. No. F1430, Laredo**

On June 12, 2020, the Board and Dennis David Cantu, M.D., entered into an Agreed Order publicly reprimanding and publicly referring Dr. Cantu to the Texas Physician Health program; requiring him to have his practice monitored by another physician for eight consecutive monitoring cycles; within one year and three attempts pass the Medical Jurisprudence Exam; within one year complete at least eight hours of CME in risk management; and no later than December 31, 2020, pay an administrative penalty of \$3,000. The Board found Dr. Cantu resigned his privileges at Laredo Medical Center due to an incident that caused a disruption with a patient's family. Dr. Cantu failed to document he had made arrangements for coverage and was delayed in responding to nurse's calls about the patient who was experiencing septic shock.

**Ouma, Joseph Agage, M.D., Lic. No. K1605, Nellis, NV**

On June 12, 2020, the Board and Joseph Agage Ouma, M.D., entered into an Agreed Order requiring him to within one year complete at least eight hours of CME, divided as follows: four hours in risk management and four hours in appropriate physical examinations; and within 60 days pay an administrative penalty of \$2,500. The Board found Dr.

Ouma's practice was restricted by the United States Air Force for a four-month period for standard of care issues related to nine patients.

#### **OTHER STATES' ACTIONS**

##### **Farooq, Muhammad, M.D., Lic. No. K4422, Camden, DE**

On June 12, 2020, the Board and Muhammad Farooq, M.D., entered into an Agreed Order publicly reprimanding Dr. Farooq. The Board found Dr. Farooq was disciplined by the Delaware Board of Medical Licensure and Discipline for unprofessional conduct.

##### **Jones, Herbert Williams, M.D., Lic. No. M8745, Minneapolis, MN**

On June 12, 2020, the Board and Herbert Williams Jones, M.D., entered into an Agreed Order publicly referring Dr. Jones to the Texas Physician Health Program and requiring him to comply with all terms of the Order entered by the Minnesota Board of Medical Practice (MBMP) on September 14, 2019. The Board found Dr. Jones was disciplined by the MBMP which arose from his impairment.

##### **Lifland, Paul Dennis, M.D., Lic. No. H7180, El Campo**

On June 12, 2020, the Board and Paul Dennis Lifland, M.D., entered into an Agreed Order publicly reprimanding Dr. Lifland and requiring him to comply with all terms of the Order entered by the North Dakota Board of Medicine (NDBM) on July 19, 2019. The Board found Dr. Lifland was disciplined by the NDBM for unprofessional conduct and lacking appropriate documentation in medical records.

##### **Smith, Stephen Ross, M.D., Lic. No. F0005, Baltimore, MD**

On June 12, 2020, the Board and Stephen Ross Smith, M.D., entered into an Agreed Order under the following terms: shall not be permitted to practice in Texas, including telemedicine, until he requests permission and appears before the Board to provide evidence that he is physically, mentally and otherwise competent to safely practice medicine; shall comply with all terms of the Order entered by the Maryland State Board of Physicians (MSBP), effective November 8, 2019; and shall not be permitted to supervise or delegate prescriptive authority to a physician assistant or advanced practice nurse or supervise a surgical assistant. The Board found Dr. Smith was disciplined by the MSBP for failure to meet appropriate standards for the delivery of medical care.

#### **VIOLATION OF PRIOR ORDER**

##### **Ibanez, Marc Albert, M.D., Lic. No. M4188, Corpus Christi**

On June 12, 2020, the Board and Marc Albert Ibanez, M.D., entered into an Agreed Order publicly reprimanding Dr. Ibanez and requiring him to within 30 days pay the \$3,000 chart monitoring fee as required by the 2017 Order; and within 30 days pay an additional administrative penalty of \$1,000. The Board found Dr. Ibanez violated his 2017 Agreed Order when he failed to timely pay a chart monitor fee as required.

##### **Yerrington, Robert, M.D., Lic. No. F2132, San Antonio**

On June 12, 2020, the Board and Robert Yerrington, M.D., entered into an Agreed Order requiring him to within 150 days pay an administrative penalty of \$2,000. The Board found Dr. Yerrington violated his 2018 Order when he failed to complete a medical recordkeeping course and certain CME within a year as required by the order.

#### **VIOLATION OF BOARD RULES**

##### **Hughes, Christopher Aaron, M.D., Lic. No. M4180, Argyle**

On June 12, 2020, the Board and Christopher Aaron Hughes, M.D., entered into an Agreed Order requiring him to have his telemedicine practice monitored by another physician for eight consecutive monitoring cycles; and within one year complete at least 20 hours of CME, divided as follows: eight hours in pain management, eight hours in risk management and four hours in telemedicine. The Board found Dr. Hughes failed to meet the requirements for establishing an adequate patient-provider relationship for telemedicine. Specifically, he conducted telephonic patient visits without



using store and forward technology, failed to keep adequate medical records, and treated two patients for chronic pain via telemedicine in violation of Board rules.

**Sunkavally, Srinivas, M.D., Lic. No. M9683, Livingston**

On June 12, 2020, the Board and Srinivas Sunkavally, M.D., entered into an Agreed Order requiring him to have his practice monitored by another physician for four consecutive monitoring cycles; within one year and three attempts pass the Medical Jurisprudence Exam; within one year complete the prescribing course offered by the University of California San Diego Physician Assessment and Clinical Education (PACE) program; and within one year complete at least 16 hours of CME, divided as follows: eight hours in medical recordkeeping and eight hours in risk management. The Board found Dr. Sunkavally failed to adequately document his care, failed to obtain records from other providers and failed to support his prescribing and treatment with adequate medical rationale for six patients.

**TXPHP VIOLATION**

**Fleckenstein, James Lawrence, M.D., Lic. No. G8836, Tulsa, OK**

On June 12, 2020, the Board and James Lawrence Fleckenstein, M.D., entered into an Agreed Order requiring him to abstain from the consumption of prohibited substances as defined in the Order; participate in the Board's drug testing program; within seven days surrender his DEA controlled substances registration certificates and not reapply without prior Board approval; shall not possess, administer, or prescribe controlled substances in Texas other than prescriptions written to him by a licensed provider for personal use; within 30 days obtain a board certified psychiatrist approved by the Board and follow all recommendations for care and treatment, and receive care no less than four times each month; participate in the activities of Alcoholics Anonymous no less than four times per week; and attend at least three Caduceus meetings per month. The Board found Dr. Fleckenstein failed to comply with a monitoring agreement with the Texas Physician Health Program and was engaged in criminal activity related to his intemperate use of controlled substances. On March 26, 2018, Dr. Fleckenstein plead guilty in the Tulsa District Court to one misdemeanor count of Possession of Controlled Dangerous Substance by Registrant by Fraud/Forgery in which he received a two-year deferred sentence.

**O'Brien, Michael Francis, M.D., Lic. No. N5289, Dallas**

On June 12, 2020, the Board and Michael Francis O'Brien, M.D., entered into an Agreed Order on Formal Filing under the following terms: lifting the suspension of his license for the sole purpose of enrolling in the Texas A&M Health Science Center Knowledge, Skills, Training, Assessment and Research (KSTAR) program; within 30 days enroll in KSTAR; and shall not be permitted to supervise or delegate prescriptive authority to a physician assistant or advanced practice nurse or supervise a surgical assistant. The Board found Dr. O'Brien was terminated from the Texas Physician Health Program for failing to comply with his agreement and that Dr. O'Brien was physically and cognitively impaired. Dr. O'Brien is currently successfully undergoing regular monitoring by the Board. The order remains in effect until superseded by further order. This order resolves a formal complaint filed at the State Office of Administrative Hearings.

**IMPAIRMENT**

**Birdwell, Russ Deacon, M.D., Lic. No. K2851, Richardson**

On June 12, 2020, the Board and Russ Deacon Birdwell, M.D., entered into an Agreed Order Upon Formal Filing publicly referring Dr. Birdwell to the Texas Physician Health Program (TXPHP) and requiring him to within one year complete the medical recordkeeping course offered by the University of California San Diego Physician Assessment and Clinical Education (PACE) program; within one year and three attempts pass the Medical Jurisprudence Exam; and within one year complete at least 12 hours of CME, divided as follows: eight hours in ethics and four hours in risk management. The Board found Dr. Birdwell failed to meet the standard of care with respect to a surgical patient and was subject to disciplinary action by his peers related to his consumption of alcohol before a procedure, impaired conduct during the procedure, and his refusal to submit to alcohol and drug screening. Dr. Birdwell self-referred to TXPHP and entered into a one-year agreement pursuant to a Baylor Scott and White return to practice agreement. This order resolves a formal complaint filed at the State Office of Administrative Hearings.

**Garcia, Rafael Fermin, M.D., Lic. No. J3700, Corpus Christi**

On June 12, 2020, the Board and Rafael Fermin Garcia, M.D., entered into an Agreed Order lifting Dr. Garcia's temporary suspension and placing him under the following terms for 10 years: within 30 days obtain a pre-approved board certified physician to serve as his work-site monitor; shall not practice more than 60 hours per week; abstain from the consumption of prohibited substances as defined in the Order; participate in the Board's drug testing program; within 30 days obtain a board certified psychiatrist approved by the Board and follow all recommendations for care and treatment; participate in the activities of a county or state medical society committee on physician impairment and rehabilitation; and participate in the activities of Alcoholics Anonymous no less than three times a week. The Board found Dr. Garcia was arrested for public intoxication in the Medical Arts Hospital on January 5, 2020. Dr. Garcia and his counsel assert the charge will be resolved by dismissal agreement, but documentation of that was not available at the time of Dr. Garcia's ISC.

**INADEQUATE MEDICAL RECORDS****Marti, Alfredo, M.D., Lic. No. J1722, Fort Worth**

On June 12, 2020, the Board and Alfredo Marti, M.D., entered into an Agreed Order requiring him to have his practice monitored by another physician for eight consecutive monitoring cycles to include specific review of informed consent documents; and within one year complete at least eight hours of in-person CME, divided as follows: four hours in medical recordkeeping and four hours in obtaining and documenting informed consent. The Board found Dr. Marti's documentation of informed consent for a spinal surgery was inadequate.

**PERFUSIONIST****Behr, Whitney, Donald, PF, Lic. No. PPF02000010, Allen**

On June 12, 2020, the Board and Whitney Donald Behr, PF, entered into an Agreed Resolution requiring Respondent to comply with all court-ordered terms imposed as a result of an arrest on December 13, 2019.

**AGREED CEASE & DESISTS****Baer, Brett Martin, DPT, No License, The Woodlands**

On June 12, 2020, the Board and Brett Martin Baer, DPT, entered into an Agreed Cease and Desist Order prohibiting Mr. Baer from practicing medicine in the state of Texas without a license issued by the Texas Medical Board. Mr. Baer shall cease and desist from referring to himself as a doctor or physician in any manner, including by referring to himself as a "doctor," or "Dr.," unless he also designates the authority under which the title is issued or the college or honorary degree that gives rise to the use of the title. The Board found Mr. Baer, who holds a physical therapist license, was marketing himself as "Dr. Brett Baer" multiple times in public relations and the direct marketing publication Review It Magazine.

**Borbon, Roger, DC, No License, Austin**

On June 12, 2020, the Board and Roger Borbon, DC, entered into an Agreed Cease and Desist Order prohibiting Mr. Borbon from practicing medicine in the state of Texas without a license issued by the Texas Medical Board. Mr. Borbon is prohibited from using advertising that may mislead the public regarding Mr. Borbon being a medical doctor. The Board found Mr. Borbon, who is a licensed chiropractor, advertised regarding his being a medical doctor who specializes in neurology.

**Garza, Victoria, No License, Harlingen**

On June 12, 2020, the Board and Victoria Garza entered into an Agreed Cease and Desist Order prohibiting Ms. Garza from practicing medicine in the state of Texas without a license issued by the Texas Medical Board. The Board found Ms. Garza provided lip filler procedures without being delegated authority to perform such injections from a properly licensed individual.

**Martinez, Mark, No License, San Antonio**

On June 12, 2020, the Board and Mark Martinez entered into an Agreed Cease and Desist Order prohibiting Mr. Martinez from practicing medicine in the state of Texas without a license issued by the Texas Medical Board. The Board found Mr. Martinez performed a cyrolipolysis (coolsculpting) procedure on a patient who sustained first or second degree burns to his abdomen during the procedure and subsequently developed hyperpigmentation. A physician or physician's midlevel provider did not perform a history, appropriate physical exam, make an appropriate diagnosis, recommend appropriate treatment, obtain consent, prepare or maintain a medical record, or provide written protocols or standing orders for cyrolipolysis.

**Pouncy, Dawda K., RN, FNP, DNP, No License, McKinney**

On June 12, 2020, the Board and Dawda K. Pouncy, RN, FNP, DNP, entered into an Agreed Cease and Desist Order prohibiting Ms. Pouncy from practicing medicine in the state of Texas without a license issued by the Texas Medical Board. Ms. Pouncy shall not refer to herself as a doctor or physician in any manner, including by referring to herself as a "doctor," or "Dr.," unless she also designates the authority under which the title issued or the college or honorary degree that gives rise to the use of the title. The Board found Ms. Pouncy marketed herself as "Dr. Dawda" in a variety of books, websites and social media platforms without consistently stating the authority by which she uses the title "Dr." Although there are some references to her doctor of nursing practice degree, there are many more instances where the reference to the degree is not used, as required by law.

**Qian, Ning, L.Ac., No License, Lubbock**

On June 12, 2020, the Board and Ning Qian, L.Ac., entered into an Agreed Cease and Desist Order prohibiting Mr. Qian from practicing medicine in the state of Texas without a license issued by the Texas Medical Board. The Board found Mr. Qian, who is an acupuncturist, engaged in the unlicensed practice of medicine by claiming Chinese acupuncture is a cure for more than 47 different diseases, which was published in an article.

**Ramos, Cynthia M., No License, San Antonio**

On June 12, 2020, the Board and Cynthia M. Ramos entered into an Agreed Cease and Desist Order prohibiting Ms. Ramos from practicing medicine in the state of Texas without a license issued by the Texas Medical Board. The Board found Ms. Ramos performed nonsurgical medical cosmetic procedures without the appropriate and required oversight from a physician or physician's midlevel provider.

**West, Michele, M.D., M.P.H., No License, Dallas**

On June 12, 2020, the Board and Michele West, M.D., M.P.H., entered into an Agreed Cease and Desist Order prohibiting Ms. West from practicing medicine in the state of Texas without a license issued by the Texas Medical Board. Ms. West shall not use "M.D." on any communications in Texas without disclosure that she is not licensed in Texas. The Board found Ms. West was employed by Geneticare, Health Solutions, LLCL as a medical advisor, of which she consulted with Geneticare employees in educating them on evidenced based and clinical guidelines on genetic testing. Unknowingly to Ms. West, Geneticare failed to communicate that she was not licensed in the state of Texas.

**Yannis, Rex Anthony, M.D., No License, Chattanooga, TN**

On June 12, 2020, the Board and Rex Anthony Yannis, M.D., entered into an Agreed Cease and Desist Order prohibiting Dr. Yannis from practicing medicine in the state of Texas or on Texas patients, including through telemedicine; including, but not limited to: performing any act, issuing a medical opinion affecting patient care and treatment related to patient care services initiated in this state, and that would affect the diagnosis or treatment of a patient. The Board found Dr. Yannis, who does not hold a Texas medical license, treated a family member in Texas without providing appropriate evaluations or keeping adequate medical records. Dr. Yannis utilized his DEA certificate for Tennessee, issued prescriptions for a controlled substance to the family member from 2014-2019, which were filled in Texas.

*To view disciplinary orders, visit the TMB website, click on "Look Up A License," accept the usage terms, then type in a licensee's name. Click on the name shown in the search results to view the licensee's full profile. Within that profile is a button that says "View Board Actions."*

*All releases and bulletins are also available on the TMB website under the "Newsroom" heading.*