



TEXAS MEDICAL BOARD

Mari Robinson, J.D.
Executive Director

***Upholding Professional Accountability:
What You Need to Know About
Physician Licensure, Discipline, &
Regulation in Texas***



Mission Statement

“Our mission is to protect and enhance the public’s health, safety and welfare by establishing and maintaining standards of excellence used in regulating the practice of medicine and ensuring quality health care for the citizens of Texas through licensure, discipline and education.”



Texas Medical Board Composition

- 12 Physician members (9 M.D. and 3 D.O.)
- 7 Public members (non-physicians)
- Appointed by the Governor for 6 year term

Board members

Irvin Zeitler, D.O.- President

Melinda McMichael, M.D.-Vice President

Paulette Southard – Secretary

Michael Arambula, M.D.

Julie Attebury

David Baucom

Stanley Wang, M.D.

Patrick Crocker, D.O.

Patricia Blackwell

John D. Ellis

Timothy Webb

Manuel Guajardo, M.D.

Scott Holliday, D.O.

Margret McNeese, M.D.

George Willeford, III, M.D.

Allan Shulkin, M.D.

Wynne Snoots, M.D.

W. Roy Smythe, M.D.

Carlos Gallardo



Quick Facts

- Texas Medical Board is 1 of many regulatory agencies in the state of Texas.
- The TMB operates under:
 - Texas Medical Practice Act
 - Rules adopted by the Texas Medical Board
- Brings in \$73 million - \$51 million goes to State's General Revenue Fund and \$22 million to TMB.
- All funds received from fines go to General Revenue and are not kept by the TMB.
- There are approximately 158 full time employees on staff, who also serves the Texas Physicians Assistant Board and Texas State Board of Acupuncture Examiners.



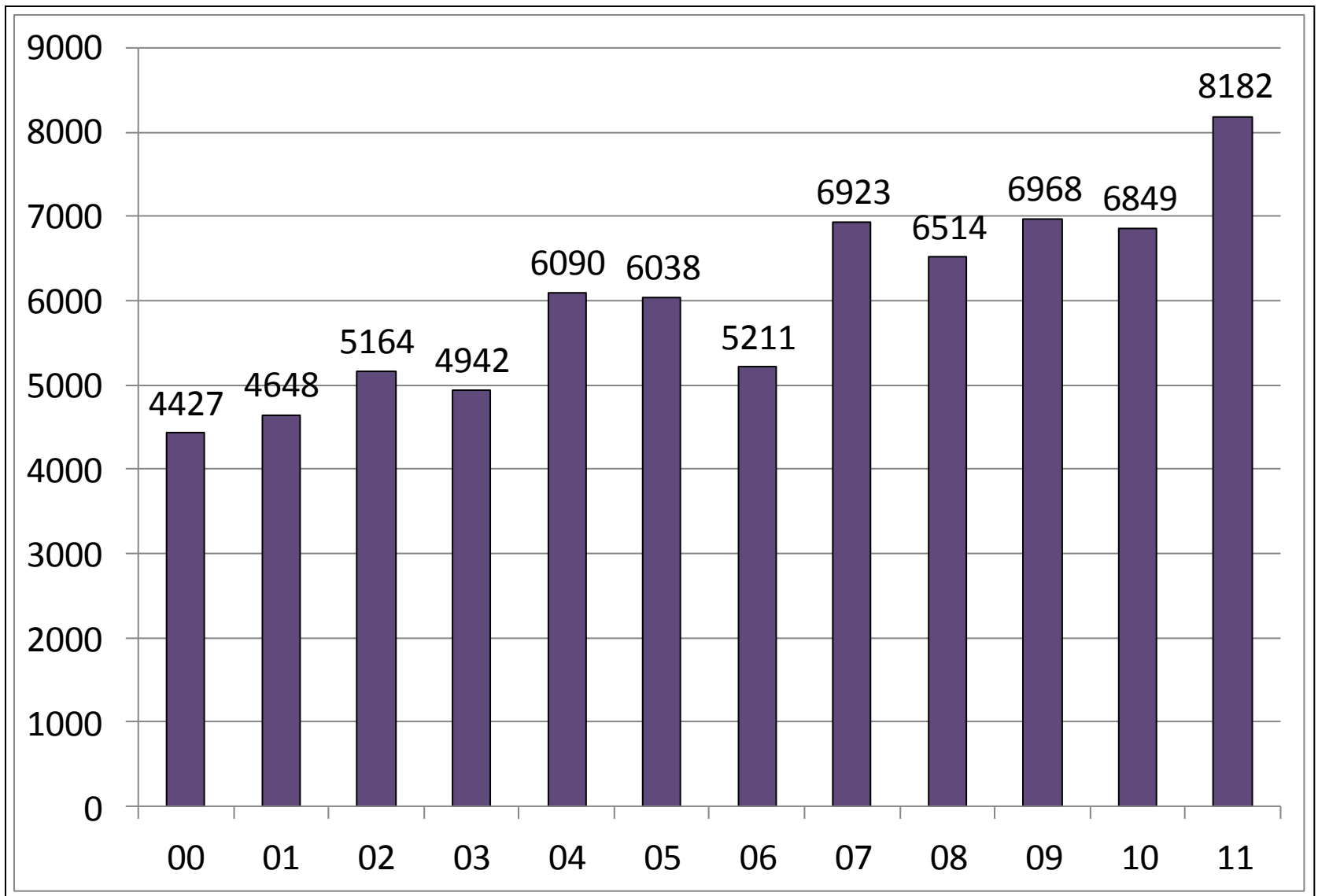
Licensee Demographics

	FY 02	FY 03	FY 04	FY 05	FY 06	FY 07	FY 08	FY 09	FY10	FY11
Licensed Physicians	60,930	62,199	62,537	63,758	64,175	66,614	69,030	70,381	72,790	74,855
Physicians	Unk.	56,301	55,993	57,150	58,040	60,209	62,693	64,134	66,443	68,279
Physicians in Training	Unk.	5,898	6,544	6,608	6,135	6,405	6,337	6,247	6,347	6,576
Acupuncturists	576	608	693	700	770	835	884	910	961	1,019
Physician Assistants	3,313	3,267	3,453	3,732	4,002	4,290	4,667	4,967	5,360	5,780
Surgical Assistants	0	158	259	272	242	259	259	269	314	314

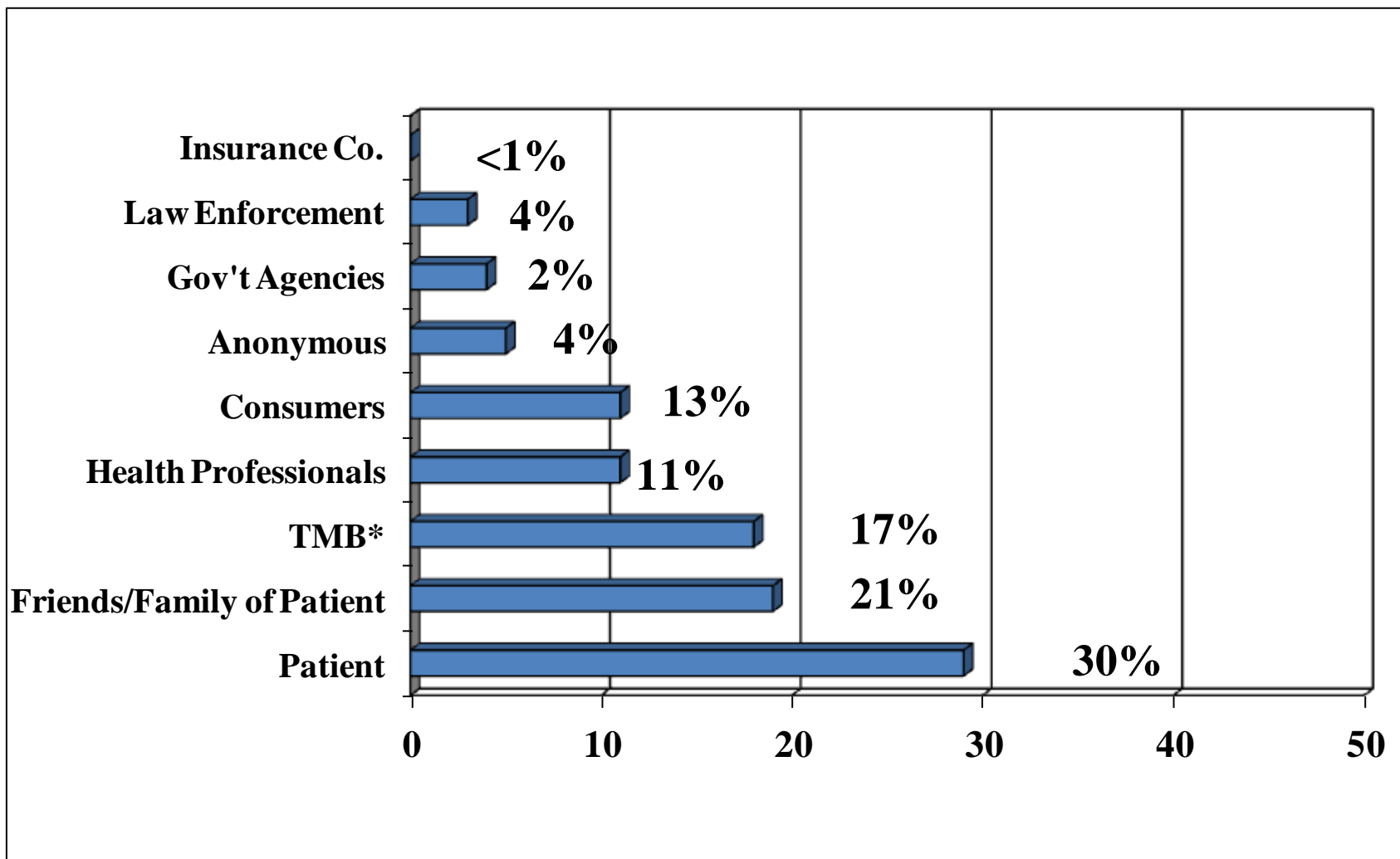


ENFORCEMENT PROCESS

Complaints Received FY '00 – '11

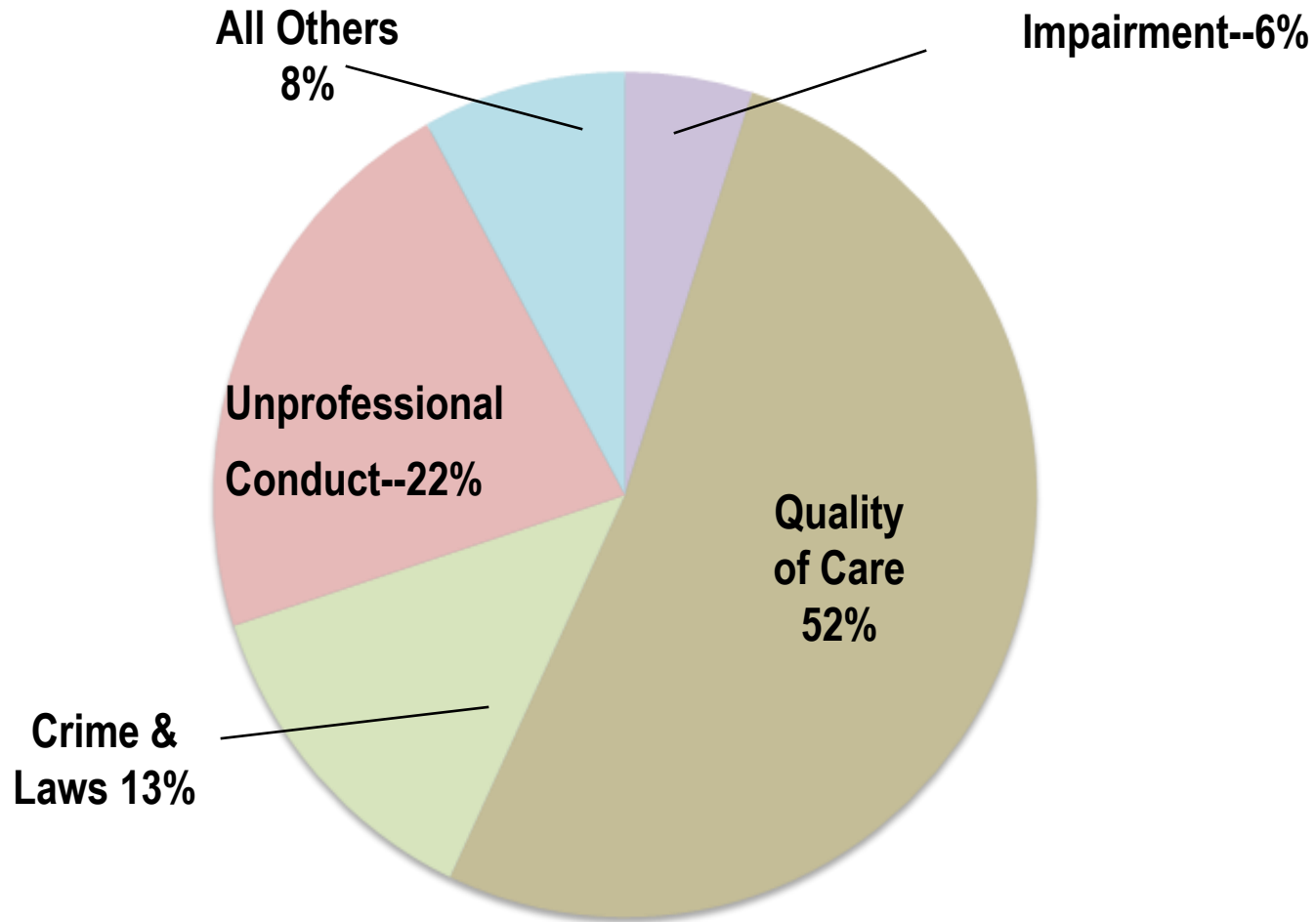


Complaints by Source-FY '11

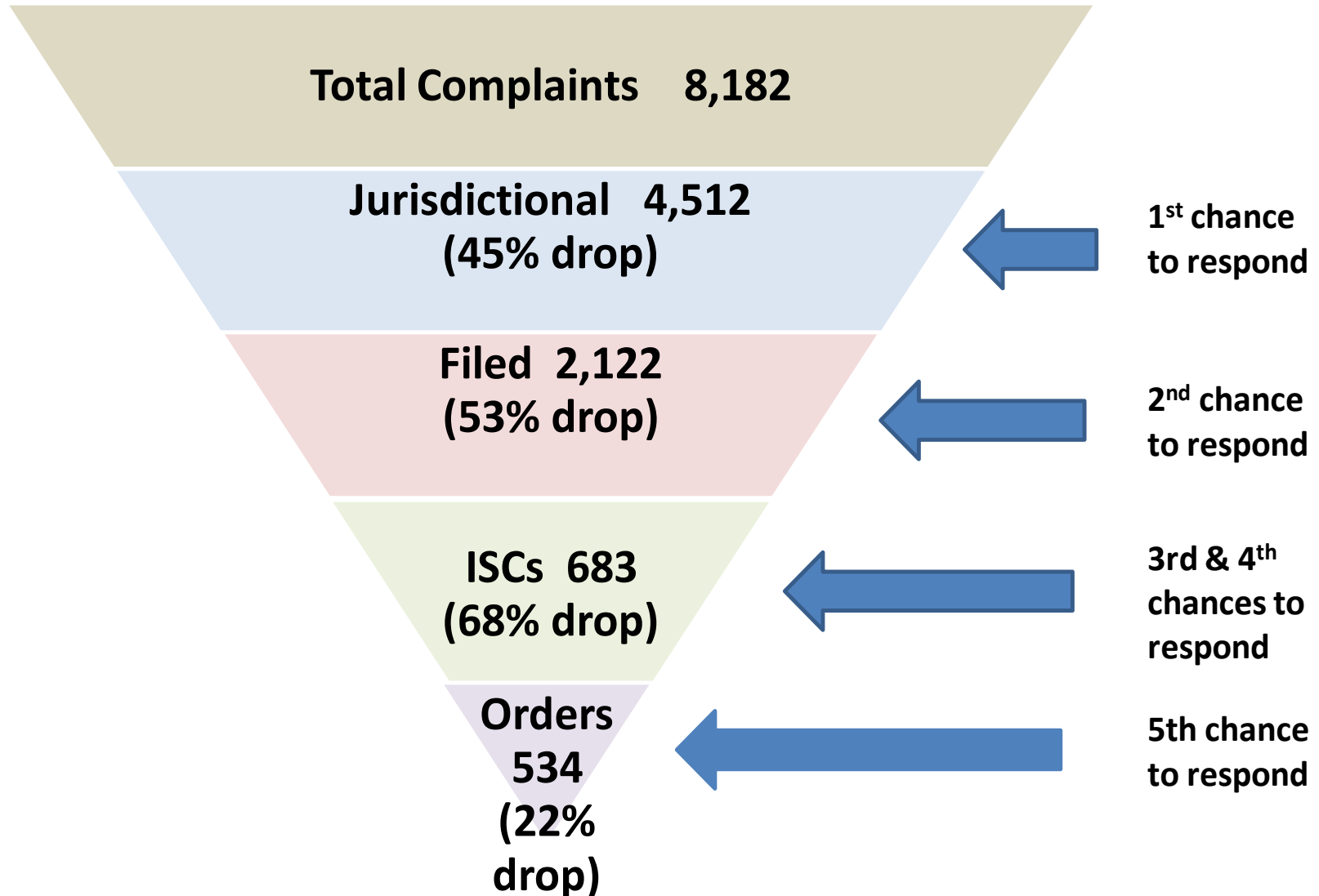


*TMB category includes registrations responses, CME audits, medical malpractice reviews, newspaper items, and board discovered violations.

Basis of TMB complaints FY '11



Complaints FY '11





How is impairment handled?

- Referrals to TXPHP
- Remain confidential unless agreement is violated
- Violations presented to the board
- Can stay confidential or be subject to board action
- If egregious, then temporary suspension

What you might not know...

- 
- Prescribing & Pain Management
 - Complementary & Alternative Medicine
 - Delegation
 - Advertising
 - Administrative Issues
 - Communication
 - New Laws

Prescribing to Friends & Family

Rule 190.8(1)(M) inappropriate prescription of dangerous drugs or controlled substances to oneself, family members, or others in which there is a close personal relationship that would include the following:

- (i) prescribing or administering dangerous drugs or controlled substances without taking an adequate history, performing a proper physical examination, and creating and maintaining adequate records; and

- (ii) prescribing controlled substances in the absence of immediate need. "Immediate need" shall be considered no more than 72 hours.





"I think the dosage needs adjusting. I'm not nearly as happy as the people in the ads."



Prescribing for Pain

Board Rule 170

- Evaluation of the patient
- Treatment plan
- Informed consent
- Agreement for treatment of chronic pain
- Periodic review of the treatment
- Consultation and referral
- Medical records





Complementary & Alternative Medicine

Board Rule 200

- Patient Assessment
- Disclosure
- Treatment Plan
- Periodic Review of Treatment
- Adequate Medical Records
- Therapeutic Validity
- Clinical Investigations
- Safe Harbor



"I'm sorry, the doctor no longer makes diagnoses."

Delegation-general

- Sec. 157.001. GENERAL AUTHORITY OF PHYSICIAN TO DELEGATE. (a) A physician may delegate to a qualified and properly trained person acting under the physician's supervision any medical act that a reasonable and prudent physician would find within the scope of sound medical judgment to delegate if, in the opinion of the delegating physician:
 - (1) the act:
 - (A) can be properly and safely performed by the person to whom the medical act is delegated;
 - (B) is performed in its customary manner; and
 - (C) is not in violation of any other statute; and
 - (2) the person to whom the delegation is made does not represent to the public that the person is authorized to practice medicine.
- (b) The delegating physician remains responsible for the medical acts of the person performing the delegated medical acts.



Delegation (con't)

Nurses

Performance of an act that requires substantial specialized judgment and skill, the proper performance of which is based on knowledge and application of the principles of biological, physical, and social science as acquired by a completed course in an approved school of professional nursing. The term does not include acts of medical diagnosis or the prescription of therapeutic or corrective measures.

Physician Assistants

The practice of a physician assistant includes providing medical services delegated by a supervising physician that are within the education, training, and experience of the physician assistant.

Delegation (con't)

Nurses

- No delegation required for acts defined as Professional Nursing by Sec. 301.002. (e.g.- assessments, evaluations, observation, administration)
- APNS— can delegate diagnosis and treatment via delegation protocols, including prescription drugs Schedules III-V.

Physician Assistants

- Delegation is always required.
- can delegate diagnosis and treatment via delegation protocols, including prescription drugs Schedules III-V.

Prescriptive Delegation

	157.052. Sites Serving Medically Underserved Populations	157.053.Prescribing at Physician Primary Practice Sites	157.0541.Prescribing at Alternate Sites	157.054. Facility-Based Practice Sites (*Must be director /chief/chair)
FTE and Facility Maximums	No limits.	May not exceed four PAs or APNs or their full-time equivalent at the physician's primary practice site or at an alternate practice site. Can seek a waiver for up to six.	May not exceed four PAs or APNs or their full-time equivalent at the physician's primary practice site or at an alternate practice site. Can seek a waiver for up to six.	<ul style="list-style-type: none"> • Long term care: May not exceed four PAs or APNs or their full-time equivalent at two facilities. • Licensed hospital: unlimited, but may only be at one facility.
Patient Relationships	Not addressed.	Physician must have established/will establish a physician-patient relationship, but the physician is not required to see the patient within a specific period.	Not addressed.	Not addressed.

Prescriptive Delegation

	157.052. Sites Serving Medically Underserved Populations	157.053 Prescribing at Physician Primary Practice Sites	157.0541.Prescribing at Alternate Sites	157.054. Facility-Based Practice Sites (*Must be director /chief/chair)
Supervision Requirements	<p>Delegating physician:</p> <ul style="list-style-type: none"> •is responsible for the formulation or approval of the orders or protocols, as well as the review •is on-site 10 business days during which the APN or PA is on-site providing care; •receives a daily status report on any problem or complication encountered; and •is available through direct telecommunication 	<p>A physician shall provide continuous supervision, but the constant physical presence of the physician is not required.</p>	<p>Delegating physician:</p> <ul style="list-style-type: none"> •is on-site with the APN or PA at least 10 percent of the time; •is available through direct telecommunication for consultation, patient referral, or assistance with a medical emergency; •reviews at least 10 percent of the medical charts at the site; •must live/have primary site within 75 miles. 	<ul style="list-style-type: none"> • A physician shall provide continuous supervision, but the constant physical presence of the physician is not required. • Delegation must be made under a physician's order, standing medical order, standing delegation order, or another order or protocol approved by the facility

Prescriptive Delegation

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Alternate Supervising Physicians	Not addressed.	Allowed on a temporary basis.	Allowed on a temporary basis.	Allowed on a temporary basis.
Advertising Requirements	Must have the name & business address of the supervising physician for the site.	Not addressed.	Not addressed.	Not addressed.



Office Based Anesthesia

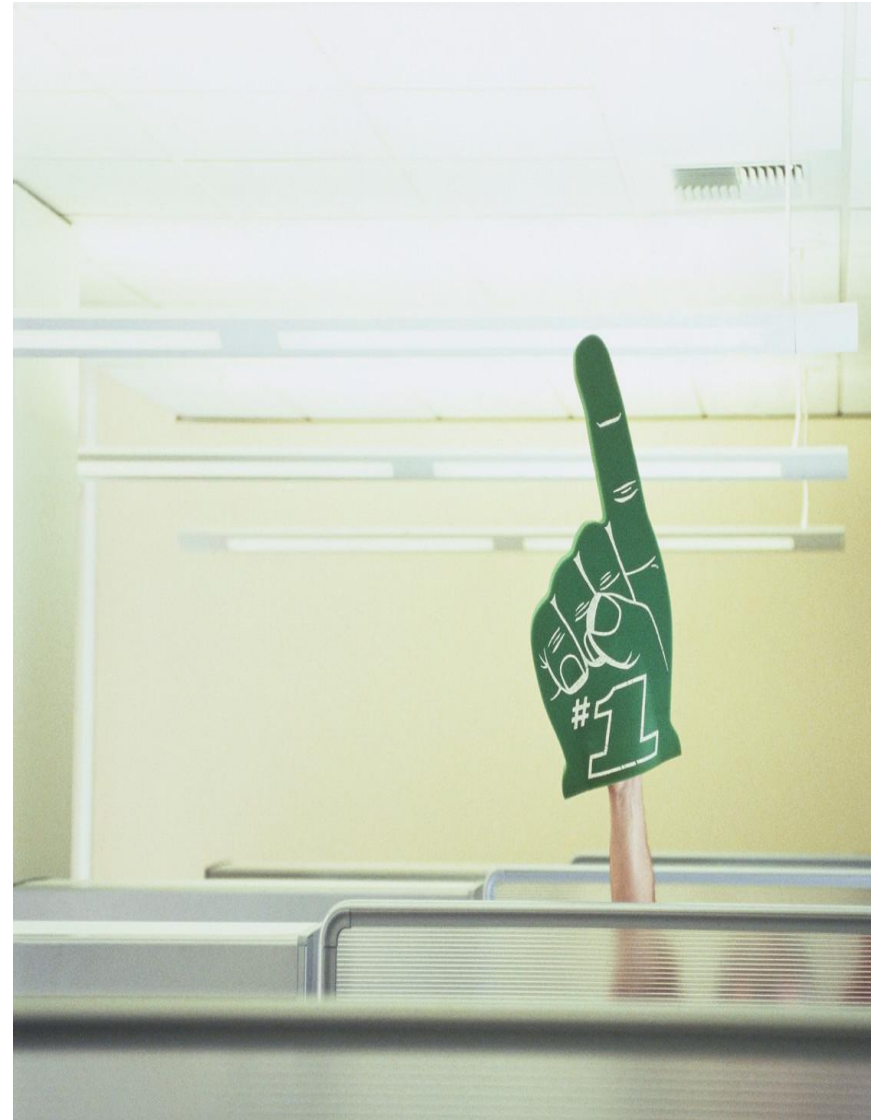
Board Rule 192

- You must register with the board
- You must provide proper equipment
- Exemptions: hospitals, government facility, some JCAHO certified centers

Advertising

Board Rule 164

- False/misleading
- Verifiable?
- Photos/Testimony
- Board Certification
- Insurance Benefits





Administrative Issues

Medical Records Release (Rule 165):

- 15 business days for release/summary
- \$25 for the first twenty pages and \$.50 per page for every copy thereafter
- \$15 may be charged for executing the affidavit
- Separate fees for medical & billing are allowed.
- No charge for retrieval or searching
- May wait for payment for records unless emergency
- May not require fees for medical services to be paid before releasing the records



Administrative Issues

- Death Certificates—You must use the electronic system
- Change of Address/Name—Must be reported to the board within 30 days
- CME—48 hours every two years (24 Cat I two of which must be ethics & 24 informal)
- Closing Practice—165.5 (letters & notice)



Administrative Issues

- Death Certificates—You must use the electronic system
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- Closing Practice—165.5 (letters & notice)
- Register- Pain Management, Delegation, OBA, Supervision



New Laws: What has Changed?

- HB 2098-Physician/PA joint ownership
- HB 894 et al.-Physician Direct Hire
- HB 680-Enforcement Changes
- HB 227-Remedial Plans
- SB 263- Revocation/Suspension for sexual or aggravated assault of a child, continuous sexual abuse of a child, or indecency with a child
- SB 263—Autopsy Facility Notice



New Laws: What has Changed?

- HB1009—Autopsy Consent
- HB1380—Licensure Req. residency
- SB189—Licensure Req. citizenship
- HB 300- Electronic Health Information



"Give it to me straight, Doc. How long do I have to ignore your advice?"



Contact Information

Pre-Licensure, Registration, and Consumer Services

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