

## 2004 Press Releases

**Friday, August 20 , 2004**

### **40 Doctors Disciplined**

During its August 12-13 Board meeting, the Texas State Board of Medical Examiners took disciplinary action against 37 licensed physicians, who received one or more of the following actions: two surrenders/revocations; 13 suspensions, of which seven were stayed under certain terms and conditions; eight restrictions; three public reprimands; and 16 administrative penalties, totaling \$80,000. The board temporarily suspended the license of three physicians since the last board meeting. The Texas State Board of Physician Assistant Examiners, at its July 21 meeting, took action against two physician assistants.

### **New Licenses Issued**

During its August 12-13 Board meeting, the Board approved the licensure applications of 552 physicians.

### **Rule Changes**

The Board adopted the following rule changes that were published in the *Texas Register*:

Chapter 163, Licensure. Creation of new §163.15 concerning permits for applicants practicing under the supervision of a licensed Texas physician for educational purposes or providing charity care to underserved populations in Texas.

Chapter 175, Fees, Penalties, and Applications. Amendments to §175.1 related to increases in application and registration fees mandated by the Texas Online Authority and increase in physician-in-training fee relating to the length of the permit.

Chapter 183, Acupuncture. Amendments to §§183.2 and 183.16 clarifying that certificates and diplomas are acceptable for acupuncture licensure.

Chapter 186, Supervision of Physician Assistant Students. Rule review with no changes.

Chapter 190, Disciplinary Guidelines. Creation of new §190.16 regarding limits on the amount of administrative penalty assessed with the exception of §190.16(6).

Chapter 192, Office-Based Anesthesia. Amendments to §§192.3-4 relating to compliance with office-based anesthesia rules and registration.

Chapter 193, Standing Orders Delegation. Amendments to §193.11, Use of Lasers, regarding continuing education on the use of laser devices.

## **Rule Withdrawals**

The Board withdrew the following rule changes that were published in the *Texas Register*:

Chapter 163, Licensure, Amendments to §163.1, definitions relating to a Special Purpose Telemedicine License. (See Chapter 163 under Proposed Rule Changes for re-proposal.)

Chapter 171, Postgraduate Training Permits. Revised chapter title, proposed repeal of §§171.1-171.7 and creation of new §§171.1-.7 for reorganization and general cleanup of the chapter. (See Chapter 171 under Proposed Rule Changes for re-proposal.)

Chapter 192, Office-Based Anesthesia. Amendments to §§192.1-.2. These will be republished after further staff review.

Chapter 193, Standing Delegation Orders. New §193.12, Use of Prescription Medical Devices. This will be republished after further staff review.

### **Proposed Rule Changes**

The Board proposed the following rule changes for publication in the *Texas Register* and comment:

Chapter 163, Licensure. Proposed repeal of §§163.8-9, and amendments to §§163.1-.3, .5, and .6 to include Definitions, Licensure for United States/Canadian Medical School Graduates, Licensure for Graduates of Acceptable Unapproved Medical Schools, Licensure Documentation, and Examinations Accepted for Licensure.

Chapter 171, Postgraduate Training Permits. Rule review and the proposed repeal of §§171.1 – .7 and creation of new §§171.1 - .7 to include Purpose, Construction, Physician-in-Training Permits, Board Approved Postgraduate Fellowship Training Programs, Institutional Permits, Duties of Program Directors to Report Certain Types of Conduct, and Inactive Status.

New Chapter 172, Temporary Licenses. Creation of new chapter that authorizes the Board to adopt rules relating to granting certain temporary licenses.

Chapter 182, Use of Experts. Proposed amendment to §182.5(1)(F) to clarify the selection criteria for appointment to the expert panel.

Chapter 183, Acupuncture. Proposed amendments to §183.2 and §183.4 concerning NCCAOM exam reformatting relating to examinations for acupuncture licensure.

Chapter 187, Procedural Rules. Rule review, new §187.28 concerning discovery, and general rule cleanup of General Provisions and Definitions, Informal Board Proceedings, Formal Proceedings at SOAH, Formal Board Proceedings, Proceedings Relating to Probationers, and Temporary Suspension Proceedings.

Chapter 199, Public Information. Rule review and cleanup of §§199.2-.4.

### **Disciplinary Actions**

The following are summaries of the Board actions. The full text of the Board orders will be available on the board's web site at [www.tsbme.state.tx.us](http://www.tsbme.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.

### **Disciplinary Actions**

#### **ALMAND, JAMES RAYMOND, JR., M.D., GRAND PRAIRIE, TX, Lic. #C5989**

On 8-13-04 the Board and Dr. Almand entered into an Agreed Order placing Dr. Almand on probation for two years including monitoring of his practice, maintaining adequate medical records, obtaining 20 hours of Category 1 CME in general records keeping and institution of a Health Maintenance Record for each of Dr. Almand's new patients. The action was based upon allegations that Dr. Almand failed to take a proper history and physical and failed to order appropriate tests and follow-up with a patient.

#### **ARMSTRONG, DAVILL, M.D., HOUSTON, TX, Lic. #F3025**

On 8-13-04 the Board and Dr. Armstrong entered into an Agreed Order requiring a board-approved monitor to review records for three years, and requiring that Dr. Armstrong enroll in and successfully complete 30 hours of CME in documentation/record-keeping and/or risk management. The action was based on allegations that Dr. Armstrong failed to properly evaluate a 12-year-old patient with reported seizures before prescribing Dilantin therapy and failed to monitor the patient after she began the therapy.

#### **ASH, STEVEN PATTERSON, M.D., GRAPEVINE, TX, Lic. #H2219**

On 8-13-04 the Board and Dr. Ash entered into an Agreed Order publicly reprimanding Dr. Ash, requiring successful completion of a course on medical errors of at least 20 hours in duration to be completed within one year, and assessing an administrative penalty of \$3,000. The action was based upon allegations that Dr. Ash removed the wrong kidney from a patient.

#### **BAILEY, SHIRLEY, M.D., LONGVIEW, TX, Lic. #D9330**

On 8-13-04 the Board and Dr. Bailey entered into an Agreed Order assessing an administrative penalty of \$500. The action was based upon allegations of poor office management, including failure to timely supply medical records.

#### **BARBER, CAREY ROBERT, M.D., DAYTONA BEACH, FL, Lic. #L7654**

On 8-13-04 the Board and Dr. Barber entered into an Agreed Order in which Dr. Barber voluntarily and permanently surrendered his license. The action was based on Dr. Barber's violation of his prior Board Order for intemperate use of alcohol. The violation involved Dr. Barber's failure to disclose his ingestion of a prescription medication as mandated by his Order.

#### **BEAUBRUN, YVON, M.D., IRVING, TX, Lic. #F4753**

On 8-13-04 the Board and Dr. Beaubrun entered into an Agreed Order assessing an administrative penalty of \$500. The action was based upon allegations that Dr. Beaubrun had failed to timely acquire required CME.

#### **BERGMAN, STUART ALONZO, JR, M.D., SAN ANTONIO, TX, Lic. #D5914**

A Temporary Suspension Order was entered by the Board on 7-27-04 temporarily suspending Dr. Bergman's license due to evidence that Dr. Bergman's continuation in the practice of medicine

presents a continuing threat to public welfare. The order remains in effect until such time as it is superseded by a subsequent Order of the Board. The suspension was based on allegations that included terroristic threats made by Dr. Bergman to a staff attorney of the Board of Medical Examiners, failure to keep complete and accurate records of purchases and disposal of controlled substances, and prescribing or administering a drug or treatment that is non-therapeutic in nature or non-therapeutic in the manner the drug or treatment is administered or prescribed.

**BRINKMAN, DIANE LOISE, M.D., AUSTIN, TX, Lic. #G3985**

On 8-13-04 the Board and Dr. Brinkman entered into an Agreed Order requiring Dr. Brinkman to obtain 10 hours of CME in documentation/record-keeping, and assessing an administrative penalty of \$1,000. The action was based on allegations that Dr. Brinkman failed to adequately document her procedures and surgical techniques during an operation (a left salpingo-oophorectomy.)

**BURLESON, JAMES DEWAIN, M.D., STAMFORD, TX, Lic. #H1932**

On 7-7-04 the Board and Dr. Burleson entered into an Agreed Order suspending Dr. Burleson's license for six months followed by probation of 10 years under terms and conditions including continuing care contract with Metro Atlanta Recovery Residences, passage of the SPEX exam within one year, random drug screening, and attendance at AA at least three times a week. The action was based upon allegations that Dr. Burleson self-injected morphine.

**CHAVEZ, BENNIE, M.D., AMARILLO, TX, Lic. #J6089**

On 8-13-04 the Board and Dr. Chavez entered into an Agreed Order suspending Dr. Chavez's license but probating the suspension for three years, and requiring attendance at a course at Vanderbilt University in Nashville, Tennessee, on physician/patient boundary issues. The action was based upon allegations that Dr. Chavez had a one-occurrence sexual relationship with an employee/patient.

**CRIM, JOHN, D.O., ARLINGTON, TX, Lic. #J8976**

On 8-13-04 the Board and Dr. Crim entered into an Agreed Order suspending Dr. Crim's license, but probating the suspension for two years, requiring his attendance at a course at Vanderbilt University in Nashville, Tennessee, on physician/patient boundary issues, completion of 10 hours of Category I CME in record-keeping, and assessing an administrative penalty of \$2,000. The action was based upon allegations that Dr. Crim nontherapeutically prescribed controlled substances to a patient and became financially involved with that patient.

**EASTER, THOMAS GLENN, II, M.D., EL PASO, TX, Lic. #G7801**

On 8-13-04 the Board and Dr. Easter entered into an Agreed Order restricting Dr. Easter's license for seven years under the same terms and conditions that are a part of his deferred adjudication, and publicly reprimanding Dr. Easter. The action was based upon Dr. Easter entering of a plea of guilty in 2001 and being placed on a deferred adjudication for 10 years for improperly prescribing narcotic drugs.

**FIELDER, RANDAL LEE, M.D., PORTLAND, TX, Lic. #K7532**

On 8-13-04 the Board and Dr. Fielder entered into an Agreed Order suspending Dr. Fielder's license until such time as he personally appears before the Board and provides evidence and information which, in the discretion of the Board, indicates that he is physically, mentally and otherwise competent to safely practice medicine. The action was based upon allegations of

inadequate medical decision-making and skills in the emergency room, and the termination of Dr. Fielder's emergency room privileges.

**FRANKLIN, STANLEY FELIX, MD., LEWISVILLE, TX, Lic. #F8755**

On 8-13-04 the Board and Dr. Franklin entered into an Agreed Order publicly reprimanding Dr. Franklin, suspending his license, but probating the suspension for five years, requiring 50 hours of CME of which at least 25 hours shall be in the area of high-risk obstetrics, and assessing an administrative penalty of \$50,000. The action was based upon allegations that Dr. Franklin failed to properly monitor a baby during the last stages of delivery, improperly used Cytotec to induce labor when contraindications existed, and failed to timely perform a C-section, all of which resulted in an emergency hysterectomy to the mother, and brain damage to the child.

**GARNER, JOHN EDWARD, D.O., GROVES, TX, Lic. #F3133**

On 8-13-04 the Board and Dr. Garner entered into an Agreed Order suspending Dr. Garner's license until such time as he personally appears before the Board and provides evidence and information which, in the discretion of the Board, indicates that he is physically, mentally and otherwise competent to safely practice medicine. The action was based upon allegations of intemperate use of alcohol.

**GONZALEZ, JAVIER ANTONIO, MD., ROSENBERG, TX, Lic. #K0045**

On 8-13-04 the Board and Dr. Gonzalez entered into an Agreed Order requiring that Dr. Gonzalez obtain 20 hours of CME in record-keeping and pharmacology in young children, and assessing an administrative penalty of \$1,000. The action was based on allegations that Dr. Gonzalez did not meet the standard of care by treating an infant with Phenergan for a prolonged period of time.

**GREENBERG, ARTHUR PAUL, MD., SAN ANTONIO, TX, Lic. #K4906**

On 8-13-04 the Board and Dr. Greenberg entered into an Agreed Order requiring Dr. Greenberg to enroll in and successfully complete 30 hours of continuing medical education (10 hours in record-keeping and 20 hours in charting histories and physicals), and assessing an administrative penalty of \$2,000. The action was based upon allegations that Dr. Greenberg prescribed Viagra via the Internet to four patients without establishing a physician-patient relationship.

**GROVER, PAWAN, MD., MISSOURI CITY, TX, Lic. #H8932**

On 8-13-04 the Board and Dr. Grover entered into an Agreed Order requiring Dr. Grover to obtain 10 hours of CME in the area of medical record-keeping and requiring Dr. Grover to complete a discussion paper on the topic "identifying deceptive pain patients." The action was based upon allegations of inadequate record-keeping.

**HABENICHT, DAVID WILLIAM, MD., AUSTIN, TX, Lic. #H5241**

On 8-13-04 the Board and Dr. Habenicht entered into an Agreed Order assessing an administrative penalty of \$500. The action was based upon a violation of patient-doctor confidentiality.

**HUGHES, DONALD DUANE, MD., FORT WORTH, TX, Lic. #E8575**

A Temporary Suspension Order With Notice was entered on 7-13-04 upholding the Board's 5-13-04 Order, which temporarily suspended Dr. Hughes' medical license. The Order remains in effect

until such time as it is superseded by a subsequent Order of the Board. The suspension was based on allegations that included sexual misconduct with adolescent patients.

**JIMENEZ, ROBERT LEO, MD., SAN ANTONIO, TX, Lic. #D3283**

On 8-13-04 the Board and Dr. Jimenez entered into an Agreed Order assessing an administrative penalty of \$500. The action was based upon allegations that Dr. Jimenez failed to timely provide a patient's medical records.

**KIM, DONG SOO, MD., HOUSTON, TX, Lic. #G1689**

On 8-13-04 the Board and Dr. Kim entered into an Agreed Order precluding Dr. Kim from treating any existing chronic pain patients or accepting any new chronic pain patients until further order of the Board, and 50 hours of CME in record-keeping and pain management for three years. Dr. Kim was under a previous Board Order for failure to adequately document his providing narcotics to patients. The action was based upon allegations that Dr. Kim again prescribed narcotics without adequate documentation supporting the type and amounts of narcotics prescribed.

**KRISTIANSEN, SONJA BOHN, MD., HOUSTON, TX, Lic. #H7623**

On 8-13-04 the Board and Dr. Kristensen entered into an Agreed Order publicly reprimanding Dr. Kristensen, requiring Dr. Kristensen to notify any patient prior to a procedure as to the estimated costs that will be billed to the insurance carrier versus the patient's estimated responsibility, requiring that Dr. Kristensen refrain from billing an office visit code with a procedure unless documented as a separate service, and assessing an administrative penalty of \$5,000. The action was based upon allegations that Dr. Kristensen failed to adequately document the services provided for the charges billed.

**LANE, FRANK ELMER, MD., DALLAS, TX, Lic. #G3541**

On 8-13-04 the Board and Dr. Lane entered into an Agreed Order assessing an administrative penalty in the amount of \$500. The action was based upon allegations of failing to timely release patient medical records.

**LEWIS, HAROLD RAY, MD., DALLAS, TX, Lic. #D8323**

On 8-13-04 the Board and Dr. Lewis entered into an Agreed Order prohibiting Dr. Lewis from performing any cardiac procedures, whether for diagnostic or interventional purposes, without a Board-approved proctor for the first 100 catheterization procedures, and requiring Dr. Lewis to obtain 10 hours of continuing medical education in record-keeping. The action was based on allegations that Dr. Lewis failed to meet the standard of care in four cardiac cases by failing to include all relevant information in the medical records.

**MACKENZIE, SEAN PATRICK, MD., ROCKFORD, IL, Lic. #K8314**

On 8-13-04 the Board and Dr. Mackenzie entered into an Agreed Order assessing an administrative penalty of \$500. The action was based on allegations on excessive charges billed by Dr. Mackenzie for medical records to a patient.

**MARTIN, PAMELA MARIE, MD., CHANDLER, AZ, Lic. #H8232**

The Board entered an Order on 8-10-04 suspending Dr. Martin's license. The action was based on allegations that Dr. Martin had failed to comply with her 2003 Board Order which required passage of the Texas Medical Jurisprudence exam.

**MCKOWN, MICHAEL WAYNE, D.O., CORPUS CHRISTI, TX, Lic. #K2243**

On 8-13-04 the Board revoked Dr. McKown's license. The action was based upon allegations that Dr. McKown violated compliance with the terms and conditions of his 2002 Agreed Order requiring drug testing. Dr. McKown may file a Motion for Rehearing within 20 days of the Order. If a Motion for Rehearing is filed and the Board denies the motion, the Order is final. If a Motion for Rehearing is filed and the Board grants the motion, the Order is not final and a hearing will be scheduled.

**MORALES, FREDDIE MIGUEL, M.D., KILLEEN, TX, Lic. #G6081**

On 8-13-04 the Board and Dr. Morales entered into an Agreed Order assessing an administrative penalty in the amount of \$5,000. The action was based upon allegations that Dr. Morales had failed to timely complete medical records and had ignored Board requests for information.

**MURRELL, BRIAN SCOTT, M.D., ODESSA, TX, Lic. #H5595**

On 8-13-04 the Board and Dr. Murrell entered into an Agreed Order placing terms and conditions on Dr. Murrell's license for five years including evaluation and treatment from a Board-approved psychologist regarding anger management and interpersonal skills, and assessing an administrative penalty of \$5,000. The action was based upon allegations of disciplinary action taken by a hospital regarding inappropriate comments made by Dr. Murrell.

**PATEL, CHANDRAKANT G., M.D., BEAUMONT, TX, Lic. #J3872**

The Board and Dr. Patel entered into an Agreed Order assessing an administrative penalty of \$1,000. The action was based upon allegations that Dr. Patel failed to timely provide a patient's medical records to an insurance carrier even after he received payment for the records.

**RHODES, ERNESTO PHILIP, M.D., MIDLAND, TX, Lic. #J3886**

On 8-13-04 the Board and Dr. Rhodes entered an Agreed Order suspending Dr. Rhodes' license through 10-30-04, then staying the suspension and placing him on probation including attendance of AA, NA, or SLAA not less than five times per week, requiring random drug screens, a forensic evaluation for substance abuse by a Board approved psychiatrist, and a complete examination by a Board-approved physician. The action was based upon allegations that Dr. Rhodes abused drugs by ingesting cocaine while seeing patients.

**ROCHA, RICARDO A., M.D., DALLAS, TX, Lic. #D3385**

An Order was entered 7-20-04 suspending Dr. Rocha's license. The action was based on evidence that Dr. Rocha had violated compliance with the terms and conditions of his 2003 Agreed Order requiring passage of the SPEX examination and successful completion of 10 hours of CME in risk management.

**ROSE, FRAN JEAN, M.D., FRISCO, TX, Lic. #H9704**

On 8-13-04 the Board and Dr. Rose entered into an Agreed Order suspending Dr. Rose's license for three years, probating the suspension except for the first 60 days, requiring a Board-approved

physician monitor and an endocrinologist's approval for the treatment of patients with thyroid and/or adrenal therapy. The action was based on allegations of non-therapeutic prescribing and improper treatment of endocrine disorders.

**SAYERS, STEPHEN CHARLES, M.D., CENTER, TX, Lic. #G5574**

A Temporary Suspension Order was entered on 6-29-04 temporarily suspending Dr. Sayers' license without notice due to evidence that Dr. Sayers' continuation in the practice of medicine would constitute a continuing threat to public welfare. The order shall remain in effect until such time as it is superseded by a subsequent order of the Board. The action was based on Dr. Sayers' arrest for possession of a controlled substance identified as cocaine.

**SMOLA, JEREMY RAY, D.O., SWEETWATER, TX, Lic. #H8416**

On 8-13-04 the Board and Dr. Smola entered into an Agreed Order suspending Dr. Smola's license but probating the suspension for five years, and requiring 20 additional hours of CME in ethics and HIPPA, attendance at a Vanderbilt course on boundaries, and assessing an administrative penalty of \$1,000. The action was based upon allegations of Dr. Smola's unprofessional conduct by having a sexual relationship with a patient.

**STANTON, JAMES MICHAEL, M.D., HOUSTON, TX, Lic. #E3779**

On 8-13-04 the Board and Dr. Stanton entered an Agreed Order suspending the physician's license for 10 years, but probating the suspension for all but three months from 1-1-05 until 3-30-05, under various terms and conditions including psychiatric evaluation and treatment, abstaining from drugs, submitting to random drug testing, eliminating his prescriptive authority for all Schedule II, III, and IV drugs, taking and passing the SPEX examination, and assessing an administrative penalty of \$5,000. The action was based on Dr. Stanton's self prescribing Ultracet (tramadol) in violation of a prior Agreed Order for abuse of prescription drugs.

**SWIFT, LEON JOSEPH, D.O., ARLINGTON, TX, Lic. #H4739**

On 8-13-04 the Board and Dr. Swift entered into an Agreed Order suspending Dr. Swift's license until such time as he personally appears before the Board and provides sufficient evidence and information that adequately indicates he is physically, mentally and otherwise competent to safely practice medicine. The action was based upon allegations that Dr. Swift received a 10-year deferred adjudication for felony assault of his former partner during a psychotic episode.

**TESORO, LEONARD JORDAN, JR., M.D., PHARR, TX, Lic. #D6194**

On 8-13-04 the Board and Dr. Tesoro entered into an Agreed Order requiring Dr. Tesoro to take and pass the Medical Jurisprudence Examination, and assessing an administrative penalty of \$2,500. The action was based upon allegations that Dr. Tesoro prescribed Viagra for 26 patients over the Internet without establishing a proper doctor-patient relationship.

**WERNER, TIMOTHY H, D.O., FARMERS BRANCH, TX, Lic. #G4508**

On 8-13-04 the Board and Dr. Werner entered into an Agreed Order suspending Dr. Werner's license for not less than six months and until such time as he personally appears before the Board and provides sufficient evidence and information which adequately indicates he is physically, mentally and otherwise competent to safely practice medicine. The action was based upon allegations that Dr. Werner suffered from drug or alcohol abuse as well as depression.



## **Physician Assistants**

### **MORGAN, KEVIN DANIEL, SAN ANTONIO, TX, Lic. #PA00930**

An Order was entered 7-21-04 suspending Mr. Morgan's physician assistant license for a minimum of six months. The suspension shall remain in effect until such time as he requests in writing to have the suspension stayed or lifted and personally appears before the Board and provides clear and convincing evidence and information which, in the discretion of the Board, adequately indicates that Mr. Morgan is physically, mentally and otherwise competent to safely practice as a physician assistant. The action was based on violation of his Agreed Order regarding substance abuse.

### **VANDERLAAN, JOAN GRAY, MCALLEN, TX, Lic. #PA01486**

On 7-30-04 the Board revoked Ms. Vanderlaan's physician assistant license. The action was based on allegations that Ms. Vanderlaan violated a previous Order of the Board. Ms. Vanderlaan may file a Motion for Rehearing within 20 days of the Order. If a Motion for Rehearing is filed and the Board denies the Motion, the Order is final. If a Motion for Rehearing is filed and the Board grants the Motion, the Order is not final and a hearing will be scheduled.

*The Texas State Board of Medical Examiners, 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 Lee S. Anderson, M.D., and Executive Director Donald W. Patrick, M.D., J.D., and mandated by Senate Bill 104 of the 78th 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.tsbme.state.tx.us](http://www.tsbme.state.tx.us) or by calling (800) 201-9353.*

Media contact Public Information Officer Jill Wiggins at [jill.wiggins@tmb.state.tx.us](mailto:jill.wiggins@tmb.state.tx.us) or (512) 305-7018

Non-media contact: (512) 305-7030 or (800) 248-4062

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