

2004 Press Releases

Wednesday, October 13, 2004

29 Doctors Disciplined

During its October 7-8 Board meeting, the Texas State Board of Medical Examiners took disciplinary action against 25 licensed physicians, who received one or more of the following actions: four surrenders/revocations; two suspensions; 10 restrictions; seven public reprimands; and 12 administrative penalties totaling \$74,000. The board temporarily suspended the license of four physicians since the last board meeting.

New Licenses Issued

During its October 7-8 Board meeting, the Board approved the licensure applications of 412 physicians.

Board Releases Disciplinary Numbers for FY 2004

For the fiscal year ending August 31, the board reports the following statistics:

Investigations opened: 1,900

Investigations completed: 1,977

Temporary Suspensions: 8

Temporary Restrictions: 2

Revocations/Surrenders: 33

Suspensions: 37

Restrictions: 86

Public Reprimands: 29

Administrative Penalties: 61

Administrative Penalty value: \$434,500

Total Disciplinary Decisions: 256

Rule Changes

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

Chapter 163, Licensure. Amendments to §§163.1-163.3, 163.5, 163.6 and repeal of §§163.8 and 163.9 concerning 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, repeal and replacement of §§171.1-171.7 concerning 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.

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. Rule review and amendments to §182.5 concerning the selection criteria for appointment to the expert panel.

Chapter 183, Acupuncture. Amendments to §183.4 relating to the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) reformatting of their examination.

Chapter 187, Procedural Rules. Amendments to §§187.1, 187.2, 187.4, 187.6-187.9, 187.11-187.14, 187.16-187.20, 187.23-187.27, 187.29, 187.31-187.34, 187.36-187.37, 187.39, 187.43, 187.55, 187.56, 187.58, 187.59, 187.61 and new §187.5 and §187.28 concerning General Provisions and Definitions, Informal Board Proceedings, Formal Board Proceedings at SOAH, Formal Board Proceedings, Proceedings Relating to Probationers and Temporary Suspension Proceedings.

Chapter 199, Public Information. Rule review and cleanup of §§199.2-199.4.

Proposed Rule Changes

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

Chapter 162, Supervision of Medical Students: Proposed amendment to §162.1 repealing the requirement that the supervising physician hold a clinical faculty appointment and new §162.2 adding the provisions of Chapter 186, Supervision of Physician Assistant Students.

Chapter 163, Licensure: Proposed amendments to §163.1(13) regarding the definition of substantial equivalence and §163.5 regarding documentation related to mental health and substantial equivalence.

Chapter 166, Physician Registration: Rule review and proposed amendments to §166.1, relating to licensees notifying the Board of changes in professional names.

Chapter 172, Temporary Licenses. Proposed new §172.10, relating to Texas Department of Health Medically Underserved Area (TDH-MUA) temporary licenses.

Chapter 175, Fees, Penalties, and Applications. Proposed rule review and proposed amendments to §175.1, concerning fees for physician-in-training permits.

Chapter 186, Supervision of Physician Assistant Students. Proposed repeal of this chapter.

Chapter 193, Standing Delegation Orders: Proposed amendments to §193.6 on delegation of the carrying out or signing of prescription drug orders to physician assistants and advanced practice

nurses to make the procedure for registering alternate delegating physicians consistent with the registration procedure required under Chapter 185 on physician assistants.

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 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.

BAISDEN, CLINTON EUGENE, MD., SAN ANTONIO, TX, Lic. #F0378

On October 8, 2004, the Board and Dr. Baisden entered into an Agreed Order publicly reprimanding Dr. Baisden, requiring him to complete a boundary violations course, and ordering him to pay a \$3,000 administrative penalty. This action was based upon allegations that Dr. Baisden made sexually inappropriate remarks and overtures to two co-workers and an individual conducting business at Dr. Baisden's place of employment.

BENNETT, JOHN SCOTT, D.O., LULING, TX, Lic. #G4820

On October 8, 2004, the Board and Dr. Bennett entered into an Agreed Order wherein Dr. Bennett voluntarily surrendered his license. This action was based upon allegations of nontherapeutic prescribing.

BOYLES, RICK A., MD., BAYTOWN, TX, Lic. #J6345

A Temporary Suspension Order was entered on September 9, 2004, temporarily suspending Dr. Boyles' license without notice due to evidence that the physician's continuation in the practice of medicine would constitute a continuing threat to public welfare. The allegations that led to the Temporary Suspension Order will be the subject of a Temporary Suspension Hearing with notice as soon as possible after proper notice. The Temporary Suspension Order shall remain in full force and effect until such time as it is superseded by a subsequent Order of the Board. The action was based on intemperate use of drugs.

CARRENO, FERNANDO, MD., CORPUS CHRISTI, TX, Lic. #K3695

On October 8, 2004, the Board and Dr. Carreno entered into an Agreed Order requiring Dr. Carreno to pay a \$1,000 administrative penalty. This action was based upon allegations that Dr. Carreno failed to timely provide medical records to a patient's attorney.

JOHN, PAUL WILLIAM, MD., AUSTIN, TX, Lic. #J0887

On October 8, 2004, the Board and Dr. John entered into an Agreed Order assessing a \$1,000 administrative penalty. This action was based on allegations that Respondent provided blank prescriptions to a pharmaceutical representative.

KELLEY, JARED LEE, MD., IRVING, TX, Lic. #F1701

On October 8, 2004, the Board and Dr. Kelley entered into an Agreed Order suspending Dr. Kelley's license. This action was based upon allegations that Dr. Kelley violated his prior Agreed Order by relapsing into Vicodin abuse and failing to properly participate in the Board's drug testing program.

KLEIN, IRA, M.D., HOUSTON, TX, Lic. #E3574

On October 8, 2004, the Board and Dr. Klein entered into an Agreed Order publicly reprimanding Dr. Klein, assessing a \$25,000 administrative penalty, and restricting his license for five years as follows: he may only provide, administer or charge for such medications that are needed for acute care; he must maintain adequate medical records on all office visits; medical records must be available for inspection by Board employees; he must complete 10 hours of continuing medical education in billing and coding each year; his practice will be monitored; and he will perform 80 colonoscopies, free of charge, to 80 indigent persons. This action was based upon allegations that Dr. Klein improperly billed his patients.

LE, NHI P., M.D., PORT LAVACA, TX, Lic. #K9105

On October 8, 2004, the Board and Dr. Le entered into an Agreed Order publicly reprimanding Dr. Le. The action was based upon a hospital's suspension of Dr. Le's privileges.

LYDE, PAUL DANIEL, M.D., COPPELL, TX, Lic. #H0586

On October 8, 2004, the Board and Dr. Lyde entered into an Agreed Order assessing a \$3,000 administrative penalty. The action was based on allegations that Dr. Lyde failed to diagnose kidney dysfunction that resulted in patient harm.

MAILMAN, DOUGLAS RAYMOND, M.D., KERRVILLE, TX, Lic. #J7350

A Temporary Suspension Order was entered on October 6, 2004, temporarily suspending Dr. Mailman's license without notice due to evidence that the physician's continuation in the practice of medicine would constitute a continuing threat to public welfare. The suspension was based on Dr. Mailman's failure to comply with an Agreed Order entered in October 2002 that revoked his license, stayed the revocation, and placed him on probation for 10 years in order to monitor substance abuse problems. The allegations that led to the Temporary Suspension Order will be the subject of a Temporary Suspension Hearing with notice to be held at a date to be determined. The Temporary Suspension Order shall remain in full force and effect until such time as it is superseded by a subsequent Order of the Board. The action was based upon violation of a previous order by relapse into drug abuse and allegations of sexual misconduct with a patient.

MCDUGALL, CLAIR L., M.D., CASA GRANDE, AZ, Lic. #D7449

On October 8, 2004, the Board and Dr. McDougall entered into an Agreed Order accepting the voluntary and permanent surrender of Dr. McDougall's license. The action was based upon allegations that Dr. McDougall was disciplined by the Arizona medical board for drug misuse, conduct that harmed a patient, and failing to provide a urine specimen for drug testing purposes when ordered to do so.

NICHOLS, DWIGHT JAMES, M.D., BRECKENRIDGE, TX, Lic. #D0985

On October 8, 2004, the Board and Dr. Nichols entered into an Agreed Order requiring a practice monitor, a prescription logbook, an agreement not to treat any new chronic pain patients, 50 hours of continuing medical education, passage of the Special Purpose Exam, and payment of a \$5,000 administrative penalty. The action was based on allegations that Respondent had prescribed controlled substances without proper evaluations and diagnoses.

OLUSOLA, BENEDICT OLADIPO, M.D., DESOTO, TX, Lic. #J7118

On October 8, 2004, the Board and Dr. Olusola entered into an Agreed Order publicly reprimanding Dr. Olusola and assessing an administrative penalty of \$1,000. The action was based on allegations that Respondent entered into a deferred adjudication order for a misdemeanor domestic disturbance.

PATEL, DIPAKKUMAR DHANJIBHAI, M.D., MIDLAND, TX, Lic. #H1170

On October 8, 2004, the Board revoked Dr. Patel's license. The action was based upon Dr. Patel's incarceration due to aiding and abetting in mail fraud. Dr. Patel 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.

PERRY, ROBERT ROLAND, M.D., ALLEN, TX, Lic. #J8712

On October 8, 2004, the Board and Dr. Perry entered into an Agreed Order assessing a \$20,000 administrative penalty and requiring Dr. Perry to continue with his drug abuse recovery plan outlined in an August 15, 2003, Agreed Order. This action was based upon allegations that Dr. Perry took Tramadol or Ultracet, alleging he had mistaken it for Aleve.

PETERS, ALONZO III, M.D., HOUSTON, TX, Lic. #F4696

A Temporary Suspension Order was entered on September 10, 2004, temporarily suspending Dr. Peters' license due to evidence that the physician's continuation in the practice of medicine would constitute a continuing threat to public welfare. The action was based on Dr. Peters' failure to comply with an Agreed Order of October 24, 2003, that required him to maintain a log of prescribing medication for pain and nontherapeutic prescribing. The Temporary Suspension Order shall remain in full force and effect until such time as it is superseded by a subsequent Order of the Board.

RAMIREZ, DANIEL ANGEL, M.D., PLANO, TX, Lic. #F4402

On October 8, 2004, the Board and Dr. Ramirez entered into an Agreed Order publicly reprimanding Dr. Ramirez, requiring him to attend a course on professional boundaries, and assessing a \$2,000 administrative penalty. The action was based upon allegations that Dr. Ramirez had prescribed controlled substances to a habitual user with whom he was romantically involved.

RANA, ATHAR NIAZ, M.D., ODESSA, TX, Lic. #F8628

On October 8, 2004, the Board and Dr. Rana entered into an Agreed Order suspending his license. This action was based upon allegations that Dr. Rana was convicted of felony healthcare fraud.

ROY, PRADEEP KUMAR, M.D., KINGWOOD, TX, Lic. #H3160

On October 8, 2004, the Board and Dr. Roy entered into an Agreed Order requiring Dr. Roy to complete a one-day course in the area of medical record keeping. The action was based upon allegations that Dr. Roy failed to keep adequate medical records on a chronic pain patient.

SHAY, JED, M.D., HOUSTON, TX, Lic. #H9568

On October 8, 2004, the Board and Dr. Shay entered into an Agreed Order assessing a \$5,000 administrative penalty. The action was based upon allegations that Dr. Shay allowed his physician assistant to use presigned prescription pads, which resulted in a prescribing error, causing harm to a patient.

STEWART, KERBY JAMES, MD., AUSTIN, TX, Lic. #J3623

On October 8, 2004, the Board and Dr. Stewart entered into an Agreed Order extending his probated suspension for an additional 10 months. This action was based on allegations that Dr. Stewart violated his previously assessed probation by failing to submit to a drug screen.

TALMAGE, EDWARD ARTHUR, MD., HOUSTON, TX, Lic. #D2722

On October 8, 2004, the Board and Dr. Talmadge entered into an Agreed Order restricting Dr. Talmadge's license, requiring him to comply with any limitations placed on his privileges by the West Houston Medical Center and requiring annual neuro-psychological evaluations. This action was based upon allegations that his practice was restricted by the Medical Center due to neuro-psychological deficits.

TAYLOR, EUGENE MADISON, MD., DENTON, TX, Lic. #D1078

On October 8, 2004, the Board and Dr. Taylor entered into an Agreed Order assessing a \$1,000 administrative penalty. The action was based upon allegations that Dr. Taylor prescribed medications for a family member without maintaining any medical records.

VERA, ANGEL GUSTAVO, MD., ABILENE, TX, Lic. #BP10004969

On October 8, 2004, the Board revoked Dr. Vera's Texas Postgraduate Resident Permit. The action was based upon allegations that Dr. Vera failed to report that he was under investigation by the New York Board of Medical Examiners and that he had resigned from his previous residency program. Dr. Vera 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.

WATSON, DAVID GREGORY, MD., TYLER, TX, Lic. #K4605

A Temporary Suspension Order was entered on August 11, 2004, temporarily suspending Dr. Watson's license with notice due to evidence that Dr. Watson's continuation in the practice of medicine would constitute a continuing threat to public welfare. The action was based on allegations of cocaine use and a positive drug test for cocaine. The Temporary Suspension Order shall remain in full force and effect until such time as it is superseded by a subsequent Order of the Board.

WHITT, WINSTON ARNETT, MD., LUBBOCK, TX, Lic. #J4612

On October 8, 2004, the Board and Dr. Whitt entered into Agreed Order publicly reprimanding Dr. Whitt and requiring 30 hours of continuing medical education in pain management, 10 hours in record keeping, 10 hours in risk management, and 30 hours in general medicine. This action was based upon allegations that Dr. Whitt maintained inadequate records and failed to communicate with other personnel concerning the medical condition of one patient.

YILMAZ, SALIH MEHMET, MD., NAVASOTA, TX, Lic. #E8237

On October 8, 2004, the Board and Dr. Yilmaz entered into an Agreed Order requiring Dr. Yilmaz to pass a medical skills exam, complete 50 hours of continuing medical education, and pay a \$5,000 administrative penalty. This action was based upon allegations that Dr. Yilmaz was arrested and subsequently indicted for delivery of hydrocodone to a confidential informant.

ZAYAS, RAUL, MD., EL PASO, TX, Lic. #G9904

On October 8, 2004, the Board and Dr. Zayas entered into an Agreed Order publicly reprimanding Dr. Zayas, assessing an administrative penalty of \$2,000, and requiring Dr. Zayas to complete within one year a Board-approved course in ethics and professional responsibility and a course on professional boundaries. The action was based upon allegations of unprofessional conduct in which Dr. Zayas performed a physical examination on a female patient without a chaperone present.

ZEPEDA, LUIS ERNESTO, MD., HOUSTON, TX, Lic. #K1739

On October 8, 2004, the Board and Dr. Zepeda entered into an Agreed Order placing Dr. Zepeda on probation for three years, requiring a board-approved chart monitor, and requiring 50 hours of continuing medical education each year. This action was based upon allegations that Respondent failed to properly supervise his delegates.

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.

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