

## **Texas Medical Board Press Release**

### **FOR IMMEDIATE RELEASE Wednesday, February 16, 2011**

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### **Medical Board Disciplines 129 Physicians**

The Texas Medical Board approved 129 disciplinary actions against physicians at its February 3-4, 2011 meeting. The February meeting was held by conference call, with call-in numbers for the public, due to statewide inclement weather. The actions in this news release include 21 violations based on quality of care; seven based on unprofessional conduct; five based on criminal behavior or convictions; as well as nine cease-and-desist orders. In addition, the board accepted the voluntary surrender of a pain management clinic's certificate to operate. The Texas State Board of Acupuncture Examiners issued a cease-and-desist order and one disciplinary order.

One hundred and sixty physician licenses were issued at the February board meeting; 617 total have been issued since September 1, 2010, the beginning of FY '11. In addition, Licensure reported that for FY '10, 3,522 licenses had been issued in an average of 36 days. Additionally, 4,218 physician licensure applications were received in FY '10, which breaks the record set last year of 4,094.

### **RULE CHANGES ADOPTED**

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

**Chapter 163: Licensure**, amendment to **§163.13**, relating to Expedited Licensure Process, corrects language to match language in statute.

**Chapter 171: Postgraduate Training Permits**, amendment to **§171.2**, relating to Construction, removes reference to "annual" reporting requirements since annual reports are no longer required under 171.5; and the amendment to **§171.5**, relating to Duties of PIT Holders to Report, clarifies that fines, citations, or violations that are over \$250 must be reported, excluding traffic tickets unless the traffic violations relate to the use of alcohol or drugs.

**Chapter 187: Procedural Rules**, amendment to **§187.8**, relating to Subpoenas, establishes that the party requesting the Board to issue a subpoena in relation to a case filed at the State Office of Administrative Hearings (SOAH) is responsible for accomplishing service of the subpoena. Amendment to **§187.14**, relating to Informal Disposition of Disciplinary Issues Against a Licensee, provides that if the licensee fails to accept an offer of settlement by the Quality Assurance Committee, or if the licensee requests that an Informal Settlement Conference (ISC) be held, the offer shall be deemed to be rejected and an ISC shall be held which is the current process. The current language says that an ISC is to be scheduled rather than "held."

Amendment to §187.27, relating to Written Answers in SOAH Proceedings and Default Orders, amends the process for issuance of default orders. Under the proposed language, if a licensee fails to timely file a response in a SOAH case, SOAH may at Board staff's request, remand the case to the Board and the Board will then rule on the staff attorney's motion for default, and issue a default order if warranted. This differs from the current process that requires the Board's general counsel to make a determination of default before the case may be remanded by SOAH. Amendment to §187.55, relating to Purpose, makes grammatical changes; and amendment to §187.59, relating to Evidence, provides that documentary evidence for temporary suspension hearings with notice must be prefiled with the Board 24 hours prior to the scheduled hearing. Admission of documentary evidence after the 24 hours shall be admitted only upon a showing of good cause. In addition, documentary evidence must be submitted in electronic format in all cases where the Respondent has been provided notice that a panel member will be appearing by phone.

**Chapter 183, Acupuncture**, amendment to §183.15, relating to Use of Professional Titles, describes when and how a licensee may use additional professional titles in advertising and other related materials. Amendment to §183.20, Continuing Acupuncture Education, clarifies that to become an approved CAE provider, the provider must submit to the board evidence that the provider has three continuous years of previous experience providing at least one different CAE course in Texas in each of those years. Amendment to §183.3, Meetings, provides that committee minutes are to be approved by the full board rather than by committee which is required under Robert's Rules of Order.

## **PROPOSED RULE CHANGES**

The following proposed rule changes will be published in the *Texas Register* for public comment at the Board's April 7-8, 2011, meeting:

**Chapter 187 Procedural Rules**, amendment to §187.70, Purposes and Construction, relating to Purposes and Construction, provides that the Board may automatically suspend the license of a physician who has been found guilty of certain drug-related felonies by a trier of fact. Amendment to §187.71 relating to Hearing Before a Panel of Board Representatives, provides that the Board may conduct a hearing for the purpose of determining whether to automatically suspend the license of a physician who has been found guilty of certain drug-related felonies by a trier of fact. Amendment to §187.72, relating to Decision of the Panel, provides that if a disciplinary panel of the board elects to automatically suspend the license of a physician that the order shall be considered administratively final for purposes of appeal. In addition, if a panel recommends the automatic suspension of a license, the panel shall also either offer an order with terms on how the suspension may be probated or that the physician's license should be revoked.

**Chapter 196, Voluntary Relinquishment or Surrender of a License**, amendment to §196.1, relating to Relinquishment of License, provides that in addition to voluntary relinquishment, a licensee may request cancellation of a license. Amendment to §196.3, related to Surrender Associated with Impairment, repeals this section as licensees may no longer surrender their license due to an impairment through a confidential rehabilitation order.

**Chapter 164, Physician Advertising**, amendment to **§164.2**, relating to Definitions, adds definitions for applicants, application, board, and certifying board. Amendment to **§164.4**, relating to Board Certification, establishes the process for applicants to have certifying boards approved by the Medical Board for purposes of advertising. Amendment to **§164.6** relating to Required Disclosures on Websites, provides that this section applies only to licensees who bill for services provided via the Internet.

**Chapter 166, Physician Registration**, amendment to **§166.7**, relating to Report of Impairment on Registration Form, provides that if a licensee has an impairment that affects a licensee's ability to actively practice medicine, the licensee shall be given the opportunity to place the license on retired status, convert the license to an administrative medicine license, cancel the license, or be referred to the Texas Physician Health Program.

**Chapter 175, Fees, Penalties and Forms**, the amendment to **§175.1**, relating to Application Fees, establishes the fee for the application of a certifying board evaluation at \$200. Amendment to **§175.2**, relating to Registration and Renewal Fees, establishes the fee for the application for certifying board evaluation renewals at \$200.

## **DISCIPLINARY ACTIONS**

### **PAIN MANAGEMENT CLINIC ACTIONS**

#### **Spring Wellness Center, LLC, Houston**

On February 4, 2011, the Board and Jesus Caquias, M.D., the holder of the Pain Management Clinic Certificate for Spring Wellness Center, entered into an Agreed Voluntary Surrender Order in which Dr. Caquias voluntarily and permanently surrendered his certificate for operating the clinic, resolving the matter as it relates to Dr. Caquias's involvement in operating Spring Wellness Center. The Order prohibits the clinic's operation as a pain management clinic.

## **QUALITY OF CARE**

#### **Arafiles, Rolando German, Jr., M.D., Lic. No. K4855, Kermit**

On February 4, 2011, the Board and Rolando German Arafiles Jr., M.D., entered into a Mediated Agreed Order publicly reprimanding Dr. Arafiles and requiring him to complete within one year the clinical competency assessment at Texas A&M's Knowledge, Skills, Training, Assessment and Research (KSTAR) program and complete any and all retraining and remedial measures recommended; have a physician monitor his practice for 12 monitoring cycles; within one year and within three attempts pass the Medical Jurisprudence Exam; complete within one year 16 hours of CME including eight hours in medical record-keeping and eight hours in treating thyroid disease; and pay an administrative penalty of \$5,000 within 90 days. The Board found Dr. Arafiles provided false information to the Board; failed to maintain confidentiality of a patient; attempted to contact a complainant or witness regarding an investigation by the Board; administered a drug or treatment that was nontherapeutic in nature; and failed to treat a patient according to the generally accepted standard of care.

**Avila, Fernando, M.D., Lic. No. G2899, San Antonio**

On February 4, 2011, the Board and Fernando Avila, M.D., entered into an Agreed Order publicly reprimanding Dr. Avila and requiring Dr. Avila to complete within one year Texas A&M's Knowledge, Skills, Training, Assessment and Research (KSTAR) program's clinical competency assessment; complete within one year a preparation course for anesthesia board-certification; pay an administrative penalty of \$2,000 within 60 days; and require Dr. Avila's chart monitor, as set forth in a 2010 Order, to focus on the monitoring of anesthesia records. The action was based on Dr. Avila's failure to meet the standard of care in his treatment of a patient who underwent a steroid injection procedure and suffered an anoxic brain injury as a result; his failure to comply with Board guidelines on the treatment of pain; failure to follow Board guidelines for the provision of anesthesia in an outpatient setting; and failure to register with the Board as a provider of office-based anesthesia services.

**Brudnak, Daniel M., M.D., Lic. No. J1894, Gorman**

On February 4, 2011, the Board and Daniel M. Brudnak, M.D., entered into an Agreed Order requiring Dr. Brudnak to have a physician monitor his practice for 12 monitoring cycles; complete within one year 24 hours of CME including eight hours in ethics, eight hours in risk management and eight hours medical record-keeping; in the second year under this order, complete 16 hours of CME including eight hours in risk management and eight hours in medical record-keeping; within one year, and within three attempts, pass the Medical Jurisprudence Examination. The action was based on Dr. Brudnak's prescribing dangerous drugs in a manner inconsistent with public health and welfare; his failure to meet the standard of care; failure to safeguard against potential complications; and failure to disclose reasonable alternative treatments to a proposed procedure or treatment.

**Cantu, Maricela, D.O., Lic. No. L8637, Houston**

On February 4, 2011, the Board and Maricela Cantu, D.O., entered into an Agreed Order publicly reprimanding Dr. Cantu and requiring her to abstain from consumption of prohibited substances for one year except as prescribed by another physician for legitimate therapeutic purposes; undergo an evaluation by a neurologist and follow all recommendations for continued care and treatment; pass within one year, and within three attempts, the Medical Jurisprudence Exam; complete within one year eight hours of CME in medical ethics; and pay an administrative penalty of \$5,000 within 90 days. In addition, Dr. Cantu may not serve as a physician for her immediate family or prescribe controlled substances or dangerous drugs to herself or her immediate family. The action was based on Dr. Cantu's writing false or fictitious prescriptions for dangerous drugs or controlled substances and nontherapeutic prescribing.

**Daggubati, Subbarao, M.D., Lic. No. G2678, Abilene**

On February 4, 2011, the Board and Subbarao Daggubati, M.D., entered into an Agreed Order requiring Dr. Daggubati to have a physician monitor his practice for eight monitoring cycles; complete within one year the medical record-keeping course offered by the University of California San Diego Physician Assessment and Clinical Education (PACE) program; and pay an administrative penalty of \$2,000 within 60 days. The action was based on Dr. Daggubati's failure to maintain adequate medical records; and failure use proper diligence in his medical practice when he did not timely refer a patient to an oncologist.

**Espiritu, Armando J., M.D., Lic. No. E5516, Georgetown**

On February 4, 2011, the Board and Armando J. Espiritu, M.D., entered into an Agreed Order publicly reprimanding Dr. Espiritu and requiring Dr. Espiritu to have another physician monitor his practice for 12 monitoring cycles; surrender his controlled substance certificates; within one year, and within three attempts, pass the Medical Jurisprudence Exam; complete within one year eight hours of CME in medical record-keeping; and pay an administrative penalty of \$1,000 within 60 days. The action was based on Dr. Espiritu's failure to meet the standard of care; nontherapeutic prescribing; writing prescriptions for a person known to be an abuser of narcotics; and dishonorable conduct likely to deceive or injure the public in his treatment of pain patients.

**Fuentes, Jose Armando, M.D., Lic. No. F1557, Dallas**

On February 4, 2011, the Board and Jose Armando Fuentes, M.D., entered into an Agreed Order requiring Dr. Fuentes to have another physician monitor his practice for eight monitoring cycles; complete within one year 16 hours of CME in managing and prescribing for chronic pain. The action was based on Dr. Fuentes' failure to meet the standard of care in his management of a patient's chronic pain when he continued to prescribe despite her noncompliance with treatment.

**Grate, Isaac, Jr., M.D., Lic. No. G4003, Houston**

On February 4, 2011, the Board and Isaac Grate Jr., M.D., entered into a Mediated Agreed Order publicly reprimanding Dr. Grate and requiring Dr. Grate to complete within one year 30 hours of CME including 20 hours in emergency medicine and acute care and 10 hours in medical record-keeping; and pay an administrative penalty of \$5,000 within 180 days. The Board found Dr. Grate failed to maintain adequate medical records and failed to use proper diligence in his professional practice when two residents under his supervision inappropriately discharged two patients from the emergency room.

**Johnson, Terry Lee, M.D., Lic. No. J5795, Wichita Falls**

On February 4, 2011, the Board and Terry Lee Johnson, M.D., entered into an Agreed Order requiring Dr. Johnson to complete six hours of CME in the topic of life-threatening conditions in infants within one year. The action was based on Dr. Johnson's failure to use proper diligence in his professional practice to safeguard against potential complications when his actions delayed a pediatric patient's diagnosis of neonatal leukemia.

**Joseph, Dominic M., M.D., Lic. No. J1278, Sugar Land**

On February 4, 2011, the Board and Dominic M. Joseph, M.D., entered into an Agreed Order requiring Dr. Joseph to complete within one year five hours of CME in ethics and pay an administrative penalty of \$500 within 50 days. The basis for action was Dr. Joseph's terminating patient care without providing reasonable notice to the patient.

**Kanaan, Elias T., M.D., Lic. No. K3270, Livingston**

On February 4, 2011, the Board and Elias T. Kanaan, M.D., entered into an Agreed Order requiring Dr. Kanaan to complete within one year the medical record-keeping course offered by the University of California San Diego Physician Assessment and Clinical Education (PACE) program; and have a physician monitor his practice for eight monitoring cycles. The Board found that Dr. Kanaan failed to maintain adequate medical records for chronic pain patients and failed

to use proper diligence in his professional practice in failing to follow up on patient compliance and pain management referrals.

**Kondejewski, Richard Joseph, M.D., Lic. No. F0548, League City**

On February 4, 2011, the Board and Richard Joseph Kondejewski, M.D., entered into an Agreed Order publicly reprimanding Dr. Kondejewski and requiring Dr. Kondejewski to surrender his DEA and DPS controlled substance certificates; pass within one year and within three attempts the Medical Jurisprudence Exam; complete within one year 32 hours of CME including 16 hours in medical record-keeping and 16 hours in the subject of evaluation and treatment of workers compensation patients; and for one year cease supervising or delegating prescriptive authority to physician extenders. The Board found Dr. Kondejewski violated Board rules regarding the treatment of chronic pain; failed to use proper diligence in his practice; prescribed dangerous drugs to a known abuser; and prescribed in a nontherapeutic manner in his treatment of a patient's depression.

**Kumar, Malini A., M.D., Lic. No. M2995, Friendswood**

On February 4, 2011, the Board and Malini A. Kumar, M.D., entered into an Agreed Order requiring Dr. Kumar to complete within one year the medical record-keeping course offered by the University of California San Diego Physician Assessment and Clinical Education (PACE) program; complete within one year eight hours of CME in risk management and eight hours in diagnosing and treating chronic pain; and pay an administrative penalty of \$5,000 within 60 days. The Board found Dr. Kumar non-therapeutically prescribed controlled substances; failed to meet the standard of care; and failed to maintain adequate medical records for chronic pain patients.

**Pisharodi, Madhavan, M.D., Lic. No. G0796, Brownsville**

On February 4, 2011, the Board and Madhavan Pisharodi, M.D., entered into a Mediated Agreed Order requiring Dr. Pisharodi to complete within one year 10 hours of CME in risk management. The Board found Dr. Pisharodi failed to safeguard against potential complications when a patient suffered complications following an epidural injection he performed in his office and his staff was not adequately trained to perform advanced life support.

**Proler, Meyer Leon, M.D., Lic. No. D0260, Houston**

On February 4, 2011, the Board and Meyer Leon Proler, M.D., entered into a Mediated Agreed Order requiring Dr. Proler to pay an administrative penalty of \$1,000 within 180 days. The Board found Dr. Proler failed to meet the standard of care in his treatment of a patient and failed to supervise delegates adequately.

**Pruneda, Joe M., III, M.D., Lic. No. H5823, Kerrville**

On February 4, 2011, the Board and Joe M. Pruneda III, M.D., entered into an Agreed Order requiring Dr. Pruneda to complete within one year 12 hours of CME including eight hours in risk management and four hours in medical record-keeping. The Board found Dr. Pruneda inappropriately prescribed to family members and did not maintain adequate medical records.

**Rice, Dana Lynn, M.D., Lic. No. L1982, Longview**

On February 4, 2011, the Board and Dana Lynn Rice, M.D., entered into a Mediated Agreed

Order publicly reprimanding Dr. Rice and requiring Dr. Rice to remain in compliance with her Louisiana Consent Order which placed her on probation for three years. Under the Louisiana Order, Dr. Rice must secure a primary care physician for any ongoing medical issues; refrain from prescribing any Schedule II, III, IV or V drugs unless in a hospital setting; refrain from treating herself or family members; and refrain from treating chronic pain or obesity. In addition, Dr. Rice must surrender her DPS controlled substance certificate; may not administer to herself or any member of her immediate family any prescription drugs for 10 years; must take within one year and pass within three attempts the Medical Jurisprudence Examination; complete within one year five hours of CME in ethics; and pay an administrative penalty of \$4,500 within 180 days. The Board found Dr. Rice did not comply with guidelines for chronic pain treatment; failed to meet the standard of care; and was subject to disciplinary action by another state; and engaged in dishonorable conduct when she saw and treated patients out of her home and kept no medical records for these patients.

**Sims, Ronald Esteene, M.D., Lic. No. G0123, League City**

On February 4, 2011, the Board and Ronald Esteene Sims, M.D., entered into an Agreed Voluntary Surrender Order in which Dr. Sims permanently surrendered his Texas medical license in lieu of further disciplinary proceedings. The Board found Dr. Sims non-therapeutically prescribed controlled substances to several patients.

**Vinther, Randal Neil, M.D., Lic. No. H7246, Nacogdoches**

On February 4, 2011, the Board and Randal Neil Vinther, M.D., entered into an Agreed Order requiring Dr. Vinther to complete eight hours of CME in medical record-keeping; pass within one year and within three attempts the Medical Jurisprudence Examination; and pay an administrative penalty of \$2,000 within 60 days. The Board found Dr. Vinther violated the standard of care in his treatment and prescribing of controlled substances for a close family member.

**Wieck, Bryan Robert, M.D., Lic. No. J0361, Wichita Falls**

On February 4, 2011, the Board and Bryan Robert Wieck, M.D., entered into an Agreed Order requiring Dr. Wieck to complete within one year 16 hours of CME including eight hours of CME in medical record-keeping and eight hours in risk management; and pay an administrative penalty of \$2,000 within 60 days. The Board found Dr. Wieck failed to meet the standard of care in his treatment of a psychiatric patient.

**White, Dezra, M.D., Lic. No. D5247, Houston**

On February 4, 2011, the Board and Dezra White, M.D., entered into an Agreed Order requiring Dr. White to have his practice monitored by another physician for four three-month cycles; and complete within one year 20 hours of CME including 10 hours in high-risk obstetrics and 10 hours in medical record-keeping. The Board found Dr. White failed to safeguard against potential complications and failed to maintain an adequate medical record for one obstetric patient.

**UNPROFESSIONAL CONDUCT**

**Bay, Luis Pablo, M.D., Lic. No. J5259, McAllen**

On February 4, 2011, the Board and Luis Pablo Bay, M.D., entered into an Agreed Order requiring Dr. Bay to complete within one year 10 hours of CME in disruptive behavior/anger management and 10 hours in risk management. The Board found Dr. Bay engaged in disruptive behavior that could adversely impact the quality of care rendered to patients.

**Etindi, Ransome, M.D., Lic. No. L2240, Waxahachie**

On February 4, 2011, the Board and Ransome Etindi, M.D., entered into an Agreed Order of Suspension publicly reprimanding Dr. Etindi and placing him under the following terms and conditions: Dr. Etindi's license is suspended until he has completed the professional boundaries course offered by the University of California San Diego Physician Assessment and Clinical Education (PACE) program; for 10 years, Dr. Etindi must have a chaperone present any time he performs a physical exam on a female patient. The Board found that Dr. Etindi engaged in sexual conduct with a patient and subsequently had his hospital privileges suspended.

**Faillace, John Joseph, M.D., Lic. No. J4106, Waco**

On February 4, 2011, the Board and John Joseph Faillace, M.D., entered into an Agreed Order publicly reprimanding Dr. Faillace and requiring Dr. Faillace to complete the boundaries course offered by the University of California San Diego Physician Assessment and Clinical Education (PACE) program within one year; complete 16 hours of CME including eight hours in ethics and eight hours in medical record-keeping within one year; and pay an administrative penalty of \$5,000 within 60 days. This action was based on Dr. Faillace's unprofessional conduct when he became romantically involved with a patient.

**Neal, Kerry Doyle, M.D., Lic. No. H0090, Grapevine**

On February 4, 2011, the Board and Kerry Doyle Neal, M.D., entered into a Mediated Agreed Order publicly reprimanding Dr. Neal and requiring him to complete the professional boundaries course offered by the University of California San Diego Physician Assessment and Clinical Education (PACE) program; and pay an administrative penalty of \$5,000 within 180 days. The Board found Dr. Neal engaged in unprofessional conduct when he became personally involved with a patient in an inappropriate manner.

**Sanders, Mark Seltzer, M.D., Lic. No. H0002, Houston**

On February 4, 2011, the Board and Mark Seltzer Sanders, M.D., entered into a Mediated Agreed Order requiring Dr. Sanders to complete within one year an anger management course; complete within one year 10 hours of CME including five hours in physician/patient relations and five hours in ethics; and pay an administrative penalty of \$3,000 within 90 days. The Board found Dr. Sanders behaved in a disruptive manner when he tossed a piece of surgical equipment in the operating room and inadvertently struck an x-ray student; and failed to establish a proper physician-patient relationship when he offered advice by way of an Internet blog.

**Smith, Stephen Harkness, M.D., Lic. No. J0271, San Angelo**

On February 4, 2011, the Board and Stephen Harkness Smith, M.D., entered into an Agreed Order requiring Dr. Smith to complete within one year 24 hours of CME including eight hours in medical record-keeping, eight hours in ethics and eight hours in stress management. The Board



found Dr. Smith did not maintain adequate medical records for a patient and became financially or personally involved with a patient in an inappropriate manner.

**Torio, Rolando Nagar, M.D., Lic. No. F0050, Lubbock**

On February 4, 2011, the Board and Rolando Nagar Torio, M.D., entered into an Agreed Order publicly reprimanding Dr. Torio and requiring Dr. Torio to complete within six months and document 12 hours of required CME, and repeat the procedure until the entire 48 hours of CME required by a previous Board order are completed. At least eight of the 48 hours must include ethics. In addition, Dr. Torio must pay an administrative penalty of \$2,000 within 60 days. The Board found Dr. Torio engaged in unprofessional conduct when he failed to comply with a Board order.

**CRIMINAL BEHAVIOR/CONVICTIONS**

**Escalera, Javier P., M.D., Lic. No. M7169, Houston**

On February 4, 2011, the Board and Javier P. Escalera entered into an Agreed Order of Revocation, which revokes Dr. Escalera's Texas medical license. The mandated statutory action was based on Dr. Escalera's current incarceration for a felony criminal charge; his using alcohol or drugs in an intemperate manner; and his practice of medicine with an expired license.

**Halberdier, John Edward, M.D., Lic. No. D9475, Conroe**

On January 10, 2011, the Texas Medical Board entered an Order of Automatic Suspension regarding John Edward Halberdier, M.D., suspending his Texas medical license. The action was based on Dr. Halberdier's incarceration in a state penitentiary.

**Lee, Justin Michael, M.D., Lic. No. N2166, Phoenix, AZ**

On February 4, 2011, the Board and Justin Michael Lee, M.D., entered into an Agreed Order of Revocation, requiring Dr. Lee to immediately cease and desist from the practice of medicine. The action was based on Dr. Lee's arrest by the FBI for involvement in a child exploitation enterprise; and his restriction from practice by the Arizona Medical Board. Dr. Lee is a pediatric anesthesiologist.

**Solis, Rafael, M.D., Lic. No. H8844, San Antonio**

On February 4, 2011, the Board and Rafael Solis, M.D. entered into an Agreed Order of Revocation, requiring Dr. Solis to cease practicing medicine. The action was based on Dr. Solis' conviction of a felony and his dishonorable conduct likely to deceive or defraud the public.

**Zimmerman, Erika Irene, M.D., Lic. No. J6829, Austin**

On February 4, 2011, the Board and Erika Irene Zimmerman, M.D., entered into a Mediated Agreed Order requiring Dr. Zimmerman to take within one year and pass within three attempts the Medical Jurisprudence Examination; complete 12 hours of CME to be divided as follows: eight hours in medical record-keeping and four hours in recognizing drug-seeking behavior; and report the outcome of her pending criminal case to the Board. The Board's action was based on Dr. Zimmerman's unprofessional conduct likely to defraud or injure the public. On September 5, 2008, Dr. Zimmerman was arrested for Delivery of a Prescription for a Controlled Substance in Schedule V Without a Valid Medical Reason, a Class A misdemeanor.

## **VOLUNTARY SURRENDERS**

### **Covin, Richard Michael, M.D., J6093, Rhinelander, WI**

On February 4, 2011, the Board and Richard Michael Covin, M.D., entered into an Agreed Order of Voluntary Surrender, in which Dr. Covin voluntarily and permanently surrendered his Texas medical license. The action was based upon Dr. Covin's health problems.

### **Emejulu, Herbert McIver, Lic. No. E4320, Aba, Nigeria**

On February 4, 2011, the Board and Herbert McIver Emejulu, M.D., entered into an Agreed Voluntary Surrender Order requiring Dr. Emejulu to immediately cease practice in Texas. The Board found that Dr. Emejulu suffers from an illness that renders him impaired and unable to continue his medical practice.

### **Felder, Jerald Barnard, M.D., Lic. No. C7591, Pendleton OR**

On February 4, 2011, the Board and Jerald Barnard Felder, M.D., entered into an Agreed Voluntary Surrender Order under which Dr. Felder permanently and voluntarily surrendered his Texas medical license because he has retired due to health reasons and is no longer able to practice medicine.

### **Kirby, Stella Louise, M.D., Lic. No. L7775, San Antonio**

On February 4, 2011, the Board and Stella Louise Kirby, M.D., entered into an Agreed Voluntary Surrender Order requiring Dr. Kirby to immediately cease practice in Texas. This action was in lieu of Dr. Kirby fulfilling the terms of the Agreed Order, entered November 19, 2008 and resolves any complaints regarding Dr. Kirby currently before the Board.

### **Korn, Tom Sriratana, M.D., Lic. No. E5813, Sulphur Springs**

On February 4, 2011, the Board and Tom Sriratana Korn, M.D., entered into an Agreed Voluntary Surrender Order, in which Dr. Korn voluntarily and permanently surrendered his Texas medical license. The action was based on Dr. Korn's failure to treat a patient according to the generally accepted standard of care and the revocation of Dr. Korn's hospital privileges at Hopkins County Memorial Hospital.

### **Schmiege, Gustav Richard, Jr., M.D., Lic. No. F5036, Rockwall**

On February 4, 2011, the Board and Gustav Richard Schmiege, Jr., M.D., entered into an Agreed Voluntary Surrender Order in which Dr. Schmiege voluntarily and permanently surrendered his Texas medical license due to health problems.

## **IMPAIRMENT**

### **Davis, John Scott, M.D., G2942, Galveston**

On February 4, 2011, the Board and John Scott Davis, M.D., entered into an Agreed Order publicly reprimanding Dr. Davis. The Board's action was based on Dr. Davis's intemperate use of alcohol or drugs that could endanger a patient's life. Dr. Davis's Faculty Temporary License at a Texas medical school was cancelled by the Board after he resigned his position; he holds no other form of licensure in Texas.

**Hoefelmann, Richard Walter, M.D., Lic. No. F7783, Mineral Wells**

On February 4, 2011, the Board and Richard Walter Hoefelmann, M.D., entered into a two-year Agreed Order requiring Dr. Hoefelmann to have a practice monitor for four monitoring cycles; complete within one year 20 hours of CME in the subject of medical record-keeping; within 30 days submit in writing the name of the physician treating Dr. Hoefelmann for diabetes and comply with recommended treatment; and pay an administrative penalty of \$1,000 within 60 days. The Board's action was based on Dr. Hoefelmann's Inadequate medical records and his inability to practice medicine safely due to his failure to manage his diabetes.

**PEER REVIEW/OTHER STATES' ACTIONS**

**Brown, Roy C., M.D., Lic. No. H2027, McChord AFB , WA**

On February 4, 2011, the Board and Roy C. Brown, M.D., entered into an Agreed Order requiring Dr. Brown to pass within one year and within three attempts the Special Purpose Examination as promulgated by the Federation of State Medical Boards. The action was based on the United States Air Force revoking Dr. Brown's privileges following a review of over 30 cases in which he failed to meet the standard of care.

**Lujan-Baez, Celeste Aida, M.D., Lic. No. K1537, DeRidder, LA**

On February 4, 2011, the Board and Celeste Aida Lujan-Baez, M.D., entered into an Agreed Order requiring her to comply with all terms and conditions of her Louisiana Medical Board disciplinary order; renew her Texas license as soon as possible; and notify the Board prior to moving to Texas. The action was based on her being disciplined by the Louisiana Medical Board for violating a Louisiana law against Internet prescribing and her failure to timely renew her license to practice medicine in Texas.

**Rossin, Richard David, M.D., Lic. No. TM00101, Eden Prairie, MN**

On February 4, 2011, the Board and Richard David Rossin, M.D., entered into an Agreed Order requiring Dr. Rossin to pay an administrative penalty of \$500 within 60 days. The action was based on the Board's finding that Dr. Rossin, who holds a Texas telemedicine license, had been disciplined by another state after being investigated by the California Department of Public Health and required to surrender for seven years his radiologic X-ray supervisor and operator license in that state.

**Scroggins, Timothy Allen, M.D., Lic. No. J4506, Spencer, OH**

On February 4, 2011, the Board and Timothy Allen Scroggins, M.D., entered into an Agreed Order requiring him to comply with all terms of his 2009 five-year probationary consent agreement with the Medical Board of Ohio. The Ohio order requires Dr. Scroggins to continue treatment for depression, and forward quarterly compliance information to the Texas Medical Board. The basis for action was based on Dr. Scroggins' inability to practice medicine with reasonable skill and safety as a result of any mental or physical condition.

**INADEQUATE MEDICAL RECORDS**

**Carter, Harvey Lee, III, M.D., Lic. No. H1564, Dallas**

On February 4, 2011, the Board and Harvey Lee Carter, III, M.D., entered into an Agreed Order

requiring Dr. Carter to pay an administrative fee in the amount of \$2,000 within 90 days. The action was based on Dr. Carter's failure to maintain adequate medical records.

**Clariday, Gregory T., M.D., Lic. No. G3230, Webster**

On February 4, 2011, the Board and Gregory T. Clariday, M.D., entered into an Agreed Order requiring Dr. Clariday to complete within one year 16 hours of CME including four hours in medical record-keeping, four hours in risk management and eight hours in time management; and pay an administrative penalty of \$2,000 within 60 days. The action was based on Dr. Clariday's failure to use proper diligence in his professional practice and inadequate medical records for one cataract surgery patient.

**Dickerson, Karen Delane, M.D., Lic. No. J4083, Dallas**

On February 4, 2011, the Board and Karen Delane Dickerson, M.D., entered into an Agreed Order requiring Dr. Dickerson to complete within one year the medical record-keeping course offered by the University of California San Diego Physician Assessment and Clinical Education (PACE) program; complete within one year eight hours of CME in ethics, eight hours in risk management and four hours in supervising physician extenders; and pay an administrative penalty of \$2,000 within 60 days. The action was based on Dr. Dickerson's failure to maintain complete medical records for patients treated for chronic pain; failure to supervise adequately those under her supervision; and failure to use proper diligence in her professional practice.

**Dodson, Jerry Wayne, M.D., Lic. No. D8195, San Angelo**

On February 4, 2011, the Board and Jerry Wayne Dodson, M.D., entered into an Agreed Order requiring Dr. Dodson to complete within one year 16 hours of CME including eight hours in medical record-keeping and eight hours in physician-patient communication; and pay an administrative penalty of \$1,000 within 60 days. The action was based on Dr. Dodson's failure to adequately document his psychiatric treatment of a patient.

**Durand, Jaime P., M.D., Lic. No. H2118, Arlington**

On February 4, 2011, the Board and Jaime P. Durand, M.D., entered into an Agreed Order requiring Dr. Durand to complete within one year eight hours of CME in medical record-keeping. The basis for action was Dr. Durand's failure to maintain adequate medical records that are complete and legible.

**Ekanayake, Surendranath, M.D., Lic. No. M7163, Baltimore MD**

On February 4, 2011, the Board and Surendranath Ekanayake, M.D., entered into an Agreed Order requiring Dr. Ekanayake to complete within one year 12 hours of CME including eight hours in medical record-keeping and eight hours in ethics. The basis for action was Dr. Ekanayake's failure to maintain adequate medical records for three patients on whom he performed abdominoplasties when performing medically necessary procedures.

**Hussain, Mustafa, M.D., Lic. No. J1695, Amarillo**

On February 4, 2011, the Board and Mustafa Hussain, M.D., entered into an Agreed Order requiring Dr. Hussain to complete within one year five hours of CME in medical record-keeping. The basis for action was Dr. Hussain's failure to maintain adequate medical records and failure

to obtain informed consent when he wrote a prescription for a patient without informing the patient's wife, who held the patient's medical power of attorney.

**Lester, R. Anton, III, D.O., Lic. No. F3204, Tyler**

On February 4, 2011, the Board and R. Anton Lester, III, M.D., entered into an Agreed Order requiring Dr. Lester to complete within one year eight hours of CME in medical record-keeping. The Board's action was based on Dr. Lester's failure to maintain adequate medical records for one patient.

**Remenchik, Ellen Jean, M.D., Lic. No. G8366, Longview**

On February 4, 2011, the Board and Ellen Jean Remenchik, M.D., entered into an Agreed Order requiring Dr. Remenchik to complete within one year 16 hours of CME including eight hours in medical record-keeping and eight hours in pain management. The action was based upon Dr. Remenchik's violation of Board rules regarding the maintenance of adequate medical records and guidelines for treating chronic pain.

## **RULES VIOLATION**

**Abraham, Cini, M.D., Lic. No. M0629, Rockwall**

On February 4, 2011, the Board and Cini Abraham, M.D., entered into an Agreed Order that requires Dr. Abraham to pay an administrative penalty of \$500 within 60 days. The action was based on Dr. Abraham's failure to use proper diligence in her professional practice when she wrote prescriptions for controlled substances with an expired DPS registration.

**Carrasco-Santiago, Manuel R., M.D., Lic. No. J5275, Big Spring**

On February 4, 2011, the Board and Manuel R. Carrasco-Santiago, M.D., entered into an Agreed Order requiring Dr. Carrasco-Santiago to complete within one year 10 hours of CME in the subject of Current Procedural Terminology (CPT) coding; and pay an administrative penalty of \$1,000 within 60 days. The action was based on Dr. Carrasco-Santiago submitting a billing statement that he knew or should have known was improper.

**Castro-Zappia, Gloria A., M.D., Lic. No. E9144, Beaumont**

On February 4, 2011, the Board and Gloria A. Castro-Zappia, M.D., entered into an Agreed Order requiring Dr. Castro-Zappia to pay an administrative penalty of \$500 within 90 days. The action was based on Dr. Castro-Zappia's writing several prescriptions for controlled substances with an expired DPS registration number over a one-month period.

**Gonzalez, Juan Manuel, M.D., Lic. No. H4937, Houston**

On February 4, 2011, the Board and Juan Manuel Gonzalez, M.D., entered into an Agreed Order requiring Dr. Gonzalez to pass within one year, and within three attempts, the Medical Jurisprudence Exam; and pay an administrative penalty of \$2,000 within 60 days. The action was based on Dr. Gonzalez's failure to report to the Board his arrest and misdemeanor conviction for driving while intoxicated.

**Miller, Beth Wheelus, M.D., Lic. No. F4283, Austin**

On February 4, 2011, the Board and Beth Wheelus Miller, M.D., entered into an Agreed Order

requiring Dr. Miller to pay an administrative penalty of \$500 within 60 days. The basis for action was Dr. Miller's violation of Board rules that prohibit the pre-signing of prescriptions for controlled substances. A mitigating factor was Dr. Miller's being placed in an "untenable position" by the hospital where she worked.

**Montero, Karin E., M.D., Lic. No. H2158, Austin**

On January 24, 2011, the Board and Karin E. Montero, M.D., entered into an Agreed Order requiring Dr. Montero to pass within one year the Medical Jurisprudence Examination, within three attempts; complete within six months the CME required for licensure maintenance; and pay an administrative penalty of \$2,000. The basis for action was Dr. Montero's failure to complete the minimum required hours of CME for licensure maintenance.

**Saran, Nirmal, M.D., Lic. No. E4933, Arlington**

On February 4, 2011, the Board and Nirmal Saran, M.D., entered into an Agreed Order publicly reprimanding Dr. Saran and requiring Dr. Saran to complete within six months all deficiencies in CME that are required CME for licensure maintenance; and pay an administrative penalty of \$2,000 within 60 days. The Board found Dr. Nirmal had not completed CME as required.

**Saranathan, Kasturirangan, M.D., Lic. No. F7599, Houston**

On February 4, 2011, the Board and Kasturirangan Saranathan, M.D., entered into an Agreed Order requiring Dr. Saranathan to complete within one year at least eight hours of CME in medical record-keeping and eight hours in risk management; and pay an administrative penalty of \$2,000 within 60 days. The action was based on Dr. Saranathan's failure to maintain adequate medical records; failure to follow Board rules regarding management of chronic pain; and failure to use proper diligence in his professional practice.

**Schoonmaker, John Bullard, M.D., Lic. No. G2017, The Woodlands**

On February 4, 2011, the Board and John Bullard Schoonmaker, M.D., entered into a Mediated Agreed Order requiring Dr. Schoonmaker to complete within two years 30 hours of CME to be divided as follows: 20 hours in psychopharmacology, and 10 hours in risk management or medical record-keeping or a combination of both; and pay an administrative penalty of \$1,500 within 60 days. The Board found Dr. Schoonmaker failed to maintain adequate records; failed to timely release a patient's medical records; and failed to use diligence in his professional practice.

**Silva, Jose J., M.D., Lic. No. J0675, El Paso**

On February 4, 2011, the Board and Jose J. Silva, M.D., entered into an Agreed Order requiring Dr. Silva to complete within one year 15 hours of CME including 10 hours in medical record-keeping and five hours in risk management; and pay an administrative penalty of \$1,000 within 90 days. The action was based on Dr. Silva's failure to maintain adequate medical records and release patient records in a timely manner.

**Smith, Ferril Chris, M.D., Lic. No. G0136, Austin**

On February 4, 2011, the Board and Ferril Chris Smith, M.D., entered into a Mediated Agreed Order requiring Dr. Smith to complete within one year 16 hours of CME including eight in medical record-keeping and eight in risk management. The Board found Dr. Smith kept inadequate medical records for two pain patients.

## **ADVERTISING VIOLATION**

### **Malik, Naila S., M.D., Lic. No. L4552, Southlake**

On February 4, 2011, the Board and Naila S. Malik, M.D., entered into an Agreed Order requiring Dr. Malik to pay an administrative penalty of \$1,000 within 90 days. The action was based on Dr. Malik's violation of Board rules that prohibit misleading advertising.

## **CEASE AND DESIST**

### **Morales, Francisco, M.D., (licensed in Mexico), Brownsville**

On February 9, 2011, Board representatives entered an automatic Cease and Desist Order against Francisco Morales, M.D., who is licensed in Mexico, but not in Texas. The Board's Executive Director signed the Order, making it effective on February 10, 2011. The Order was based on activities by Dr. Morales inside the physical borders of the State of Texas. The Board representatives found that Dr. Morales, acting in the role of a physician and/or surgeon, met with persons in Texas and physically transported them over the border into Mexico to administer medical treatments in exchange for compensation in violation of the Texas Medical Practice Act.

### **Borden, Saxon Delano, M.D., (no license), Houston**

On February 4, 2011, the Board and Saxon Delano Borden, M.D., entered into an Agreed Cease and Desist Order prohibiting him from practicing medicine in Texas. The Board found Dr. Borden engaged in the unlicensed practice of medicine at the South Kirby Pain Relief Center in Houston by holding himself out as a physician; acting in the capacity of a physician; making patient evaluations and treatment recommendations as a physician; and prescribing controlled substances to two patients without proper legal authority. Dr. Borden denies the findings of fact, but agreed to the order to avoid the expense and inconvenience of litigation.

### **Dickson, Teresa May, M.D., (no license), Flint**

On February 4, 2011, the Board and Teresa May Dickson, M.D., entered into an Agreed Cease and Desist Order prohibiting Dr. Dickson from practicing medicine in Texas. On February 5, 2010, Dr. Dickson surrendered her license. The Board found that during the period of February 5, 2010 to August 6, 2010, Dr. Dickson engaged in the unlicensed practice of medicine by using her prescription pads to write 35 prescriptions for the dangerous drug Soma. Dr. Dickson denies the findings of fact but agrees to the order to avoid the expense and inconvenience of litigation.

### **Elkins, Terri Miller, M.D., (no license), Red Oak**

On February, 4, 2011, the Board entered an order of Cease and Desist By Default against Terri Miller Elkins, M.D., prohibiting her from the practice of medicine. A complaint was filed by the Board with the State Office of Administrative Hearings (Docket No. 503-10-5741) alleging that Dr. Elkins, whose license was cancelled on or about December 8, 2006, wrote herself a physician's order for a mammogram dated April 1, 2008. Dr. Elkins failed to respond to the complaint, so all facts alleged in the complaint are deemed admitted.

### **Garza, Gilberto, (no license), Houston**

On February, 4, 2011, the Board entered an order of Cease and Desist By Default against

Gilberto Garza, prohibiting him from the practice of medicine. A complaint was filed by the Board with the State Office of Administrative Hearings (Docket No. 503-10-5742) alleging that Mr. Garza, who is not licensed to practice medicine in Texas, engaged in the practice of medicine in this state during May, June and July 2009, and held himself out as a licensed physician at Pinnacle Pain Management Clinic in Houston; he wore the lab coat of his employer, Joseph J. Patrick, M.D., while seeing one or more patients; and prescribed controlled substances using pre-signed prescription forms bearing the signature of his employer, Dr. Patrick. Mr. Garza failed to respond to the complaint, so all facts alleged in the complaint are deemed admitted.

**Juarez, Dario Rivera, (no license), McAllen**

On February, 4, 2011, the Board entered an order of Cease and Desist By Default against Dario Rivera Juarez, prohibiting him from practicing medicine. A complaint was filed by the Board with the State Office of Administrative Hearings (Docket No. 503-10-5743) alleging that Mr. Juarez, who does not have a Texas medical license, represented himself to patients as a medical doctor at a clinic in La Feria, in 2005 and 2006, where he conducted physical exams on patients, diagnosed complaints, prescribed medications, and wrote prescriptions using prescription authorization numbers belonging to another person, a licensed physician. On October 21, 2006, Mr. Juarez was arrested and charged with a third-degree felony for practicing medicine without a license. On November 1, 2006, Mr. Juarez was arrested and charged with two counts of a second degree felony for sexual assault of two male patients seen by Mr. Juarez in October 2006. Mr. Juarez failed to respond to the Board's complaint, so all facts alleged in the complaint are deemed admitted.

**Mitchell, Roby Dean, M.D., (no license), Amarillo**

On February, 4, 2011, the Board entered an order of Cease and Desist By Default against Roby Dean Mitchell, M.D., prohibiting him from practicing medicine; his Texas medical license was permanently revoked by the Board in September 2005. A complaint was filed by the Board with the State Office of Administrative Hearings (Docket No. 503-10-5750) alleging that Dr. Mitchell has engaged in the unlicensed practice of medicine in Amarillo, where he operates a medical practice office, advertises his services and solicits patients, and dispensed medications. Dr. Mitchell failed to respond to the Board's complaint, so all facts alleged in the complaint are deemed admitted.

**Valdez, Pedro, M.D., (no license), San Antonio**

On February, 4, 2011, the Board entered an order of Cease and Desist By Default against Pedro Valdez, M.D., prohibiting him from practicing medicine. Dr. Valdez is not licensed to practice medicine in Texas; in July 2001, he was issued a physician-in-training permit. Subsequently, in April 2003, his permit was revoked. A complaint was filed by the Board with the State Office of Administrative Hearings (Docket No. 503-10-5779) alleging that Dr. Valdez was employed in 2008 by University Health System as a medical assistant and assigned to work in the Bexar County Jail. In March and April 2008, Dr. Valdez performed diagnostic evaluations, made recommendations for x-rays, tests, procedures and treatment plans. Dr. Valdez failed to respond to the Board's complaint, so all facts alleged in the complaint are deemed admitted.

**Weichmann, Michael, (no license), Friendswood**

On February, 4, 2011, the Board entered an order of Cease and Desist By Default against



Michael Weichmann, prohibiting him from practicing medicine. A complaint was filed by the Board on August 11, 2010 with the State Office of Administrative Hearings (Docket No. 503-10-5749) alleging that Mr. Weichmann acted in the capacity of a licensed physician even though he is not, and has never been, licensed in Texas. The Board also alleges that Mr. Weichman used the medical license of another person to purchase various hormones and/or other pharmaceutical agents; ordered, prescribed and sold herbal supplements to the public that contained hormones; and recommended medical treatment plans. Mr. Weichmann failed to respond to the Board's complaint, so all facts alleged in the complaint are deemed admitted.

## **FAST TRACK ORDERS**

The board issued 20 orders for minor statutory violations.

## **CORRECTIVE ORDERS**

Corrective orders are for violations that do not warrant restricting a physician's license but may include requirements such as administrative penalties, continuing medical education or chart monitoring.

Alexander, Bill, M.D., Lake Worth  
Algeo, James, Jr., M.D., Hendersonville TN  
Arrambide, Kathryn H., M.D., Quincy IL  
Collins, Timothy M., D.O., Arlington  
Cotner, Jerry B., M.D., Richardson  
Garza, Nora O., M.D., San Antonio  
Garza, Oscar, M.D., Pearsall  
Guss, Jennifer E., M.D., Houston  
Hadad, Anibal R., M.D., Houston  
Harding, Michael O., D.O., North Richland Hills  
Jimenez, Jose F., M.D., Ponte Vedra Beach FL  
Johnson, David G., M.D., San Antonio  
Jones, Allen J., M.D., Port Orange FL  
Jones, Wanwisa Y., M.D., Plano  
Kapasi, Moshin, M.D., San Antonio  
Laursen, Gerald P., M.D., San Antonio  
Levcovitz, Henrique, M.D., San Antonio  
Martinez, Richard E., M.D., Boerne  
Mbogua, Caroline, M.D., Houston  
Memon, Ilyas M., M.D., The Woodlands  
Neasman, Farley B., II, M.D., Harlingen  
Neblock, Michele L., M.D., Troy MO  
Nguyen, Hoa T., M.D., West Monroe LA  
Okoh, James I., M.D., Eden Prairie MN  
Peel, Deborah C., M.D., Austin  
Pierce, Scott M., D.O., Greenville  
Reed, Yvonne J., M.D., Cleburne

Reeder, Phillip H., M.D., Waco  
Reyes, Jose, M.D., San Antonio  
Sacco, Damon C. M.D., Greenbrae CA  
Sajadi, Cyrus, M.D., Houston  
Trevino, James G., M.D., San Antonio  
Zebaida, Yeheskel, M.D., Corpus Christi

## **ACUPUNCTURE BOARD ACTIONS**

### **Aboytes, Juan, (no license), Kingsville**

On January 21, 2011, the Texas State Board of Acupuncture Examiners entered a Cease and Desist Order by Default against Juan Aboytes. Based on the Board's investigation, there was evidence that Mr. Aboytes held himself out to the public in March 2009 as an acupuncturist. Further, Mr. Aboytes admitted to a Board investigator in April 2009 that he did perform acupuncture on some people. The Board filed a Complaint at the State Office of Administrative Hearings on August 12, 2010 (SOAH Docket No. 503-10-5781.AC) seeking an order to cease and desist the unlicensed practice of acupuncture. Despite adequate notice, Mr. Aboytes never responded or filed an Answer. Thereafter, upon a Determination of Default, and a subsequent Motion for Remand from SOAH, the Board obtained jurisdiction, again noticed Mr. Aboytes by publication, and after receiving no response, issued its Cease and Desist Order by Default.

### **Nakamura, Taro, Ac., Lic. No. AC00261, Houston**

On January 21, 2011, the Texas State Board of Acupuncture Examiners and Taro Nakamura, Ac., entered into an Agreed Order requiring Mr. Nakamura to submit a written plan within three months for improved medical record-keeping on all patient office visits, consultations and treatments. The action was based on Mr. Nakamura's practicing acupuncture in an unprofessional manner, and his failure to maintain an adequate medical record for one patient.