

The Texas Medical Board (Board) proposes the repeal of current Chapter 180, concerning Texas Physician Health Program, §§180.1 – 180.4.

Also, the Board contemporaneously proposes the repeal of current Chapter 190, concerning Disciplinary Guidelines. This includes Subchapter A, concerning General Provisions, §190.1 and §190.2; Subchapter B, concerning Violation Guidelines, §190.8; Subchapter C, concerning Sanction Guidelines, §190.14 and §190.15; and Subchapter D, concerning Administrative Penalties, §190.16.

The Board has determined that due to the extensive reorganization of Chapters 160-200, repeal of Chapters 180 and 190 is more efficient than proposing multiple amendments to make the required changes.

The Board proposes new Chapter 180, concerning Disciplinary Guidelines. This includes new Subchapter A, concerning Violation Guidelines, §180.1; and Subchapter B, concerning Sanction Guidelines, §180.5.

#### SUBCHAPTER A. VIOLATION GUIDELINES.

New §180.1, Violation Guidelines, outlines the acts, practices and conduct that are violations of the Medical Practice Act.

#### SUBCHAPTER B. SANCTION GUIDELINES.

New §180.5, Sanction Guidelines, provide guidance on assessing remedial action or sanctions for violations of the Medical Practice Act.

Scott Freshour, General Counsel for the Texas Medical Board, has determined that, for each year of the first five years the proposed repeals and new sections are in effect, the public benefit anticipated as a result of enforcing these proposed sections will be to remove redundant language from rules, simplify the rules, and make the rules easier to understand.

Mr. Freshour has also determined that for the first five-year period these proposed repeals and new sections are in effect, there will be no fiscal impact or effect on government growth as a result of enforcing the proposed sections.

Mr. Freshour has also determined that for the first five-year period these proposed repeals and new sections are in effect there will be no probable economic cost to individuals required to comply with these proposed sections.

Pursuant to Texas Government Code §2006.002, the agency provides the following economic impact statement for these proposed repeals and new sections and determined that for each year of the first five years these proposed repeals and new sections will be in effect there will be no effect on small businesses, micro businesses, or rural communities. The agency has considered alternative methods of achieving the purpose of these proposed repeals and new sections and found none.

Pursuant to Texas Government Code §2001.024(a)(4), Mr. Freshour certifies that this proposal has been reviewed and the agency has determined that for each year of the first five years these proposed repeals and new sections are in effect:

(1) there is no additional estimated cost to the state or to local governments expected as a result of enforcing or administering these proposed repeals and new sections;

(2) there are no estimated reductions in costs to the state or to local governments as a result of enforcing or administering these proposed repeals and new sections;

(3) there is no estimated loss or increase in revenue to the state or to local governments as a result of enforcing or administering these proposed repeals and new sections; and

(4) there are no foreseeable implications relating to cost or revenues of the state or local governments with regard to enforcing or administering these proposed repeals and new sections.

Pursuant to Texas Government Code §2001.024(a)(6) and §2001.022, the agency has determined that for each year of the first five years these proposed repeals and new sections will be in effect, there will be no effect on local economy and local employment.

Pursuant to Government Code §2001.0221, the agency provides the following Government Growth Impact Statement for these proposed repeals and new sections. For each year of the first five years these proposed repeals and new sections will be in effect, Mr. Freshour has determined the following:

(1) These proposed repeals and new sections do not create or eliminate a government program.

(2) Implementation of these proposed repeals and new sections does not require the creation of new employee positions or the elimination of existing employee positions.

(3) Implementation of these proposed repeals and new sections does not require an increase or decrease in future legislative appropriations to the agency.

(4) These proposed sections do not require an increase or decrease in fees paid to the agency.

(5) These proposed repeals and new sections do not create new regulations.

(6) These proposed repeals and new sections do repeal existing regulations as described above. These proposed new sections do not expand or limit an existing regulation.

(7) These proposed repeals and new sections do not increase the number of individuals subject to the sections' applicability.

(8) These proposed repeals and new sections do not positively or adversely affect this state's economy.

Comments on the proposal may be submitted using this link: <https://forms.office.com/g/TFPksa6Qp2>. A public hearing will be held at a later date. Comments on the proposal will be accepted for 30 days following publication.

The repeal of the rules is proposed under the authority of the Texas Occupations Code Annotated, §153.001, which provides authority for the Board to recommend and adopt rules and bylaws as necessary to: govern its own proceedings; perform its duties; regulate the practice of medicine; and enforce this subtitle. The repeal of the rules is also proposed in accordance with the requirements of Texas Government Code, §2001.039, which requires a state agency to review and consider its rules for readoption, readoption with amendments, or repeal every four years. No other statutes, articles or codes are affected by this proposal.

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§180.1. Purpose.

§180.2. Definitions.

§180.3. Texas Physician Health Program.

§180.4. Operation of Program.

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The new rules are proposed under the authority of the Texas Occupations Code Annotated, §153.001, which provides authority for the Board to recommend and adopt rules and bylaws as necessary to: govern its own proceedings; perform its duties; regulate the practice of medicine; and enforce this subtitle. The new rules are also proposed in accordance with the requirements of Chapter 164 of the Texas Occupations Code. No other statutes, articles or codes are affected by this proposal.

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## SUBCHAPTER A. VIOLATION GUIDELINES.

### §180.1. Violation Guidelines.

When substantiated by credible evidence, the following acts, practices, and conduct are considered to be violations of the Medical Practice Act ("the Act") and are not an exhaustive or exclusive listing:

(1) Practice inconsistent with public health and welfare. Failure to practice in an acceptable professional manner consistent with public health and welfare within the meaning of the Act includes, but is not limited to:

(A) failure to treat a patient according to the generally accepted standard of care;

(B) negligence in performing medical services;

(C) failure to use proper diligence in one's professional practice;

(D) failure to safeguard against potential complications;

(E) improper utilization review;

(F) failure to timely respond in person when on-call or when requested by emergency room or hospital staff;

(G) failure to disclose reasonably foreseeable side effects of a procedure or treatment;

(H) failure to disclose reasonable alternative treatments to a proposed procedure or treatment;

(I) failure to obtain informed consent from the patient or other person authorized by law to consent to treatment on the patient's behalf before performing tests, treatments, procedures, or autopsies as required under Chapter 49 of the Code of Criminal Procedure;

(J) termination of patient care without providing reasonable notice to the patient;

(K) prescription or administration of a drug in a manner that is not in compliance with the standards for physicians practicing complementary and alternative medicine or that is either not approved by the Food and Drug Administration (FDA) for use in human beings or does not meet standards for off-label use, unless an exemption has otherwise been obtained from the FDA, as applicable; or

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

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

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

(2) Unprofessional or dishonorable conduct likely to injure the public. Unprofessional or dishonorable conduct that is likely to injure the public within the meaning of the Act includes, but is not limited to:

(A) violating a board order;

(B) failing to comply with a board subpoena or request for information or action;

(C) providing false information to the board;

(D) failing to cooperate with board staff;

(E) engaging in sexually inappropriate contact or behavior directed towards a patient, patient's family, other licensees, hospital personnel, or other medical personnel in a medical setting;

(F) behaving in an abusive or assaultive manner towards a patient or the patient's family or representatives;

(G) failing to timely respond to communications from a patient;

(H) failing to complete the required amounts of Continuing Medical Education (CME);

(I) failing to maintain the confidentiality of a patient;

(J) failing to report suspected abuse of a patient by a third party, when the report of that abuse is required by law; or

(K) behaving in a disruptive manner toward licensees, hospital personnel, other medical personnel, patients, family members of patients or others.

(3) Unprofessional or dishonorable conduct likely to deceive or defraud the public. Unprofessional or dishonorable conduct that is likely to deceive or defraud the public, within the meaning of the Act includes, but is not limited to:

(A) becoming financially or personally involved with a patient in an inappropriate manner;

(B) referring a patient to an entity, such as a facility, laboratory, or pharmacy without disclosing the existence of the licensee's financial interest in the entity to the patient;

(C) using false, misleading, or deceptive advertising;

(D) interfering with an investigation, such as contacting or attempting to contact a complainant, witness, medical peer review committee member, or professional review body regarding statements or information provided to the board for purposes of intimidation, harassment or demanding to withdraw cooperation from the board;

(E) providing medically unnecessary services to a patient; or

(F) a physician or an employee or representative of a physician submitting a billing statement to a patient or a third-party payer that is false or fraudulent, misrepresents services provided, or otherwise does not meet professional standards.

(4) Disciplinary action by peer groups. A voluntary relinquishment of privileges, agreement to not renew privileges, or a failure to renew privileges with a hospital, medical staff, or medical association or society while an investigation or disciplinary action is pending or is on appeal, constitutes disciplinary action that is appropriate and reasonably supported by evidence submitted to the board, within the meaning of the Act.

(5) Repeated or recurring meritorious health care liability claims evidencing professional incompetency likely to injure the public. Repeated or recurring meritorious health care liability claims evidencing professional incompetency likely to injure the public means three or more claims made in a five-year period within the last seven years that were resolved by either a judicial decision or settlement for at least \$100,000.00 with the consent of the physician.

(6) Disciplinary action by another state board. A voluntary surrender of a license in lieu of disciplinary action or while an investigation or disciplinary action is pending constitutes disciplinary action within the meaning of the Act and may be considered the equivalent of a revocation.

(7) Discipline based on criminal conviction.

(A) Initial conviction. An initial conviction occurs when there has been adjudication of guilt of the offense charged including, but not limited to, a finding of guilt by a jury or judge, or a plea.

(B) Final conviction. A final conviction means a non-appealable finding of guilt.

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The new rules are proposed under the authority of the Texas Occupations Code Annotated, §153.001, which provides authority for the Board to recommend and adopt rules and bylaws as necessary to: govern its own proceedings; perform its duties; regulate the practice of medicine; and enforce this subtitle. The new rules are also proposed in accordance with the requirements of Chapter 164 of the Texas Occupations Code. No other statutes, articles or codes are affected by this proposal.

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## SUBCHAPTER B. SANCTION GUIDELINES.

### §180.5. Sanction Guidelines.

(a) The standard sanctions outlined in this subsection provide a range from "Low Sanction" to "High Sanction."

(b) The board may impose more or less severe or restrictive sanctions, based on any aggravating or mitigating factors that are found to apply in a particular case.

(1) The following may be considered as aggravating factors:

(A) harm to one or more patients;

(B) the severity of patient harm;

(C) one or more violations that involve more than one patient;

(D) economic harm to any individual or entity and the severity of such harm;

(E) increased potential for harm to the public;

(F) attempted concealment of the act constituting a violation;

(G) intentional, premeditated, knowing, or grossly negligent act constituting a violation;

(H) prior similar violations;

(I) previous disciplinary action by the board, any government agency, peer review organization, or health care entity;

(J) violation of a board order; or

(K) other relevant circumstances increasing the seriousness of the misconduct.

(2) The following may be considered as mitigating factors:

(A) self-reported and voluntary admissions of violation(s);

(B) implementation of remedial measures to correct or mitigate harm from the violation(s);

(C) acknowledgment of wrongdoing and willingness to cooperate with the board, as evidenced by acceptance of an agreed order;

(D) rehabilitative potential;

(E) prior community service and present value to the community;

(F) participation in a continuing medical education course described in §161.35 of this title completed not more than two years before the start of the investigation, if the physician is being investigated by the board regarding the physician's selection of clinical care for the treatment of tick-borne diseases;

(G) other relevant circumstances reducing the seriousness of the misconduct; or

(H) other relevant circumstances lessening responsibility for the misconduct.

- (c) The maximum sanction in all cases is revocation of the licensee's license.
- (d) For remedial plans in which continuing medical education is recommended, a minimum of four hours in each appropriate topic addressing the violation(s) is the recommended hour requirement. For agreed orders in which continuing medical education is recommended, a minimum of eight hours in each appropriate topic addressing the violation(s) is the recommended hour requirement.
- (e) Remedial plans will include a fee related to the enforcement costs, in the amount of \$500.00.
- (f) Administrative penalties may be required in the amount between \$1,000.00 up to \$5,000.00 per violation. In accordance with §165.003 of the Act, each day the violation continues is a separate violation.
- (g) Each statutory violation constitutes a separate offense, even if arising out of a single act.
- (h) For any violation of the Act that is not specifically mentioned in this rule, the board shall apply a sanction that generally follows the spirit and scheme of the sanctions outlined in this rule.

Figure: 22 TAC §180.5

Figure 22 TAC 180.5

<b>Violation Description</b>	<b>Statutory/Rule Citation</b>	<b>Low Sanction</b>	<b>High Sanction</b>
Abusive or disruptive behavior	Texas Occupations Code (TOC) §164.052(a)(5) Rule §180.1	Remedial Plan: CME and JP Exam	Agreed Order: IDE/IME or public referral to PHP; CME; administrative penalty; JP Exam; and physician coaching.  For multiple orders or egregious actions interfering with patient care: Public reprimand; suspension
Aiding in unlicensed practice	TOC §164.052(a)(17)	Agreed Order: CME and JP Exam	Agreed Order: Low sanctions; public reprimand; restrict from supervising or delegating; and administrative penalty
Boundary violation: engaging in sexually inappropriate contact or behavior directed toward a patient’s family, other licensees, hospital personnel, or other medical personnel in a medical setting	TOC §164.052(a)(5) Rule §180.1	Agreed Order: Public reprimand; JP Exam; CME in ethics; consider boundaries course (for a minimum of 23 hours or more); consider chaperone	Agreed Order: Low sanctions plus suspension up to revocation
Boundary violation: engaging in sexually inappropriate contact or behavior directed towards a patient	TOC §164.052(a)(5) Rule §180.1	<b>RP is statutorily prohibited</b>  Agreed Order: Suspension (minimum 1 year); public reprimand; boundaries course (for a minimum of 23 hours or more); JP Exam; CME in ethics; consider IDE/IME; restriction on treating patient of affected gender when	Revocation



		suspension is completed	
Boundary violation: becoming financially or personally involved with a patient in an inappropriate manner	TOC §164.052(a)(5) Rule §180.1	<b>RP is statutorily prohibited</b>  Single incident, Agreed Order: CME in ethics or professionalism; JP Exam; consider restitution if financial involvement; administrative penalty	More than one incident (more than one patient or occasion), Agreed Order: Low sanctions plus: public reprimand; boundaries course (for a minimum of 23 hours or more); or suspension or revocation
Breach of confidentiality	TOC §164.052(a)(5) Rule §180.1	Remedial Plan: CME and JP Exam	Agreed Order: Low sanctions plus: public reprimand and administrative penalty
CME - Failure to obtain or document CME	TOC §164.051(a)(3) Rule §161.35	Remedial Plan: Complete all missing hours of CME and additional CME to address the violation	Agreed Order: Low sanctions plus: administrative penalty and JP Exam
Crime: Abortion - performing a criminal abortion	Texas Health & Safety Code Chapter 170A TOC Chapter 164		Revocation statutorily required
Crime: Deferred adjudication community supervision for offense under Penal Code §§21.11; 22.011(a)(2); 22.021(a)(1)(B) (assaultive offenses against children)	TOC §164.057(c)		Revocation statutorily required
Crime: Felony conviction	TOC §164.057(a)(1)(A) TOC §164.057(b)	Initial conviction: Suspension statutorily required	Final conviction: Revocation statutorily required
Crime: Felony deferred adjudication/disposition  Misdemeanor involving moral turpitude deferred adjudication/disposition or	TOC §164.051(a)(2)	Agreed Order: Appropriate sanction such as referral to PHP, IME/IDE, CME; comply with criminal court order	Agreed Order: Lower sanctions plus practice restrictions; administrative penalty, or suspension or revocation

conviction, not connected with practice			
Crime: Misdemeanor conviction connected with the physician's practice of medicine	TOC §164.051(a)(2)(B) TOC §53.021	Agreed Order: PHP referral if appropriate; IME/IDE if appropriate; suspension, which may be probated with practice restrictions CME, compliance with criminal court order; administrative penalty	Agreed Order: Lower sanctions except no probation of suspension and suspend until cleared by IME/IDE
Crime: Misdemeanor initial conviction under Penal Code Chapter 22 for a crime punishable by more than a fine; §§25.07; 25.071; or a misdemeanor on conviction requiring registration as a sex offender under Code of Criminal Procedures Chapter 62	TOC §164.057(a)(1)(B), (C), (D), and (E)	Suspension is statutorily required per §164.057(a)(1)(B)	Revocation is statutorily required on final conviction per §164.057(b)
Delegation of professional medical responsibility or acts to person if the physician knows or has reason to know that the person is not qualified by training, experience, or licensure to perform the responsibility or acts	TOC §164.053(a)(9);	Remedial Plan: CME in supervision and delegation, risk management, and ethics; JP Exam	Agreed Order: Low sanctions plus no delegation or supervision authority; administrative penalty
Disciplined by other state or military	TOC §164.051(a)(9) TOC §164.051(e)	Reciprocal agreed order as appropriate.	If out-of-state order is revocation, revocation is statutorily required if basis would be grounds for the board to revoke in Texas
Discipline by peers, may be either an administrative violation or SOC	TOC §164.051(a)(7)	Agreed Order: See the applicable sanction for the violation of the Texas Medical Practice Act that most closely	Agreed Order: Public reprimand; comply with all restrictions, conditions and terms

		relates to the basis of the disciplinary action by peers. In addition, the licensee shall comply with all restrictions, conditions and terms imposed by the disciplinary action by peers to the extent possible.	imposed by the disciplinary action by peers to the extent possible; and administrative penalty, plus directed CME and, if SOC case, a chart monitor. If not SOC: Anger management course; CME in communications; consider fitness to practice assessments (such as IDE, IME, or fitness for duty evaluations)
Employing or associating with a revoked/cancelled/ or suspended physician (see also aiding and abetting the unlicensed practice)	TOC §164.052(a)(14) TOC §164.052(a)(15)	Agreed Order: Public reprimand; administrative penalty; JP Exam	Agreed Order: Public reprimand; administrative penalty; JP Exam; no delegation authority
Failure to adequately supervise subordinates and improper delegation	TOC §164.053(a)(8) TOC §164.053(a)(9)	Remedial Plan: CME in supervision and delegation	Agreed Order: CME in supervision and delegation; administrative penalty; JP Exam; consider limiting supervision and delegation
Failure to communicate with patient or other providers	TOC §164.052(a)(5)	Single incident: Remedial Plan-- risk management CME to include patient communications (if appropriate)	Multiple instances: Agreed Order: Public reprimand, risk management and communications CME, fine, counseling; consider physician coaching program

Failure to display a "Notice Concerning Complaints"	Rule §177.2	Remedial Plan: CME in ethics or risk management	Agreed Order: CME in ethics or risk management, administrative penalty; JP Exam
Failure to maintain drug logs (see also, violation of state or federal law connected with practice)	TOC §164.053(a)(2)	Remedial Plan: CME in ethics or risk management	Agreed Order: Public reprimand; CME in ethics or risk management; administrative penalty; JP Exam
Failure to notify patients about relocation or termination of practice	TOC §164.051(a)(3) Rule §163.4	Remedial Plan: CME	Agreed Order: CME; administrative penalty; and JP Exam
Failure to provide explanation of fees	TOC §101.203; §101.351	Remedial Plan: CME in ethics, risk management, and billing practices	Agreed Order: CME in ethics, risk management, billing practices, and CPT coding; administrative penalty
Failure to register pain management clinic or obtain exemption; failure to operate non-exempt pain clinic in accordance with statute and Board rules	TOC §168.101	Agreed Order JP Exam; CME in ethics, risk management; administrative penalty; consider requiring registration if not already registered	Agreed Order Lower sanctions plus: higher administrative penalty; if failed to register non-exempt entities: restricted from operating or owning pain clinic
Failure to report suspected abuse of a patient by a third party, when the report of that abuse is required by law	TOC §164.052(a)(5) Rule §180.1	Remedial Plan; CME in risk management; JP Exam	Agreed Order: Low sanctions plus public reprimand; administrative penalty
Fraud on a diploma/in an exam	TOC §164.052(a)(2) TOC §164.052(a)(3)	Misrepresentations that do not make licensee/applicant ineligible: Remedial Plan - CME in ethics or risk management	If misrepresentation makes the licensee ineligible, then revocation.

<p>Fraudulent, improper billing practices - requires that Respondent knows the service was not provided or knows was improper, unreasonable, or medically or clinically unnecessary</p>	<p>TOC §101.203 TOC §164.053(a)(7)</p>	<p>Agreed order: Including, but not limited to: monitoring of billing practices; directed CME; restitution; and administrative penalty; but not to exceed the amount of improper billing</p>	<p>Agreed Order: Public reprimand, monitoring of practice, including billing practices; CME; restitution; and administrative penalty</p>
<p>Health care liability claim, failure to report</p>	<p>TOC §160.052(b)</p>	<p>Remedial Plan: CME in ethics or risk management</p>	<p>Agreed Order: CME in ethics or risk management; administrative penalty; JP Exam</p>
<p>Impairment (no history and no aggravating factors such as SOC, boundary violation, or felony)</p>	<p>TOC §164.051(a)(4) TOC §164.052(a)(4)</p>	<p>Refer to PHP--Public referral via agreed order required if case involves referral to TMB from PHP, otherwise private referral is OK if appropriate</p>	<p>Voluntary surrender or Agreed Order of Suspension</p>
<p>Impairment (with history or SOC violation or boundary violation or felony)</p>	<p>TOC §164.051(a)(4) TOC §164.052(a)(4)</p>	<p>Agreed Order: Restrict practice; if active impairment is found at ISC, suspension of license until such time as the licensee can demonstrate that the licensee is safe and competent to practice medicine, with conditions to be determined by a subsequent panel; consider fitness to practice assessments (such as IDE, IME, or fitness for duty) with report to ED or to panel at re-convened ISC, restrict practice or</p>	<p>Agreed Order: Suspension of license until such time as the licensee can demonstrate that the licensee is safe and competent to practice medicine OR Suspension probated for minimum period of years with terms and conditions including but not necessarily limited to: drug testing; restrictions on practice; AA or NA attendance evidenced by logs; consider fitness to</p>

		voluntary suspension pending report	practice assessments (such as IDE, IME, or fitness for duty) for psychiatric/psychological evaluation and treatment; proficiency testing OR revocation
Intimidation of Complainant or Witness	TOC §164.052(a)(5)	Single Incident: Agreed Order Public reprimand and fine	Multiple/Egregious Agreed Order Suspension and/or revocation; significant administrative penalty; CME in ethics; JP Exam
Medical Records: Failure to maintain adequate medical records	TOC §164.051(a)(3) Rule §163.1	Remedial Plan: CME in appropriate area	Agreed Order: medical record-keeping, require in-person attendance if practical; chart monitor 8 – 12 cycles; administrative penalty; JP Exam; intensive course in medical record-keeping if prior order for inadequate record-keeping
Medical Records: Failure to release/ Overcharging for	TOC §159.006 §164.051(a)(3) Rule §163.3	Remedial Plan: CME in ethics or risk management	Agreed Order: CME in ethics or risk management, administrative penalty; JP Exam
Misleading advertising	TOC §164.051(a)(3) TOC §164.052(6)	Remedial Plan: CME in ethics or risk management, Correct the advertisement	Agreed Order: CME in ethics or risk management; Correct the advertisement; administrative penalty, JP Exam

Improper termination of physician-patient relationship	TOC §164.051(a)(6) Rule §180.1	Single incident: Remedial Plan: CME in risk management and ethics	Multiple instances: Public reprimand, risk management, fine, CME - in physician-patient communications
Prescribing controlled substances to oneself, family members, or others in which there is a close personal relationship absent immediate need, without taking an adequate history, performing a proper physical examination, or creating and maintaining adequate records	TOC §164.051(a)(6) Rule §180.1	Agreed Order CME on topic of medical recordkeeping or risk management; CME in appropriate prescribing of controlled substances; JP Exam  If only one prescription and no evidence of pattern, the ISC Panel may consider a remedial plan	Agreed Order Low sanctions plus public reprimand; restrictions on prescribing to self, family, and others in which there is a close personal relationship, restrictions on practice including restrictions on prescribing and administering controlled substances and dangerous drugs, administrative penalty of \$3,000.00 per violation
Prescribing dangerous drugs to oneself, family members, or others in which there is a close personal relationship without taking an adequate history, performing a proper physical examination, or creating and maintaining adequate records	TOC §164.051(a)(6) Rule §180.1	Remedial Plan: CME in medical recordkeeping or risk management; JP Exam	Agreed Order: Low sanctions plus restrictions on prescribing to self, family, and others in which there is a close personal relationship and administrative penalty
Prescribing, writes false or fictitious prescriptions OR prescribes or dispenses drugs to a person who is known to be an abuser of narcotic	TOC §164.053(a)(3)–4)	Agreed Order: CME in drug-seeking behavior, risk management; chart monitor at least 8 cycles; JP Exam; administrative penalty	Agreed Order Low sanctions plus: restrictions on practice including restrictions on prescribing and administering controlled

<p>drugs, controlled substances, or dangerous drugs OR writes prescriptions for or dispenses to a person who the physician should have known was an abuser of narcotic drugs, controlled substances, or dangerous drugs</p>			<p>substances and dangerous drugs; proficiency testing; directed CME; and increase administrative penalty</p> <p>If evidence shows pill mill activities or false or fictitious prescriptions, surrender DEA registration certificate for all controlled substance schedules, consider suspension or revocation</p>
<p>Prescribing, nontherapeutic OR dispensing, or administering of drugs nontherapeutically, one patient, no prior board disciplinary history related to standard of care or care-related violations OR prescribing, administering, or dispensing in a manner inconsistent with public health and welfare, one patient, no prior board disciplinary history related to standard of care or care-related violations</p>	<p>TOC §164.053(a)(5)–(6)</p>	<p>Remedial Plan CME in appropriate area</p>	<p>Agreed Order: Proficiency testing, CME in appropriate area; chart monitor for 8 cycles; administrative penalty</p>
<p>Prescribes or administers a drug or treatment that is nontherapeutic</p>	<p>TOC §164.053(a)(5)–(6)</p>	<p>Agreed Order: CME in appropriate area; chart monitor for 12 cycles;</p>	<p>Agreed Order: Low Sanctions plus restrictions on practice, including prescribing and</p>



<p>More than one patient or prior history of disciplinary action for standard of care or care-related violations OR Prescribing, administering, or dispensing in a manner inconsistent with public health and welfare</p> <p>More than one patient or prior history of disciplinary action for standard of care or care-related violations</p>		<p>administrative penalty; consider proficiency testing</p>	<p>administering controlled substances and dangerous drugs; and administrative penalty</p> <p>If there are aggravating factors, revocation should be considered</p>
<p>Referring a patient to an entity without disclosing the existence of the licensee's ownership interest in the entity to the patient</p>	<p>TOC §164.052(a)(5) Rule §180.1</p>	<p>Remedial Plan: CME in topic of ethics, risk management</p>	<p>Agreed Order: Low sanctions plus public reprimand; JP Exam; administrative penalty</p>
<p>Refusal to respond to board subpoena or request for information or action</p>	<p>TOC §160.009 TOC §164.052(a)(5) Rule 180.1</p>	<p>If records eventually received, Remedial Plan: CME in ethics or risk management</p>	<p>If records are never received or intentionally withheld, Agreed Order: public reprimand; JP Exam; administrative penalty; CME in ethics; consider Agreed Order of Suspension</p>
<p>Reporting false or misleading information on an initial application for licensure or for licensure renewal</p>	<p>TOC §164.052(a)(1)</p>	<p>Misrepresentations that do not make licensee/applicant ineligible: Remedial Plan - CME in ethics or risk management</p>	<p>If misrepresentation makes the licensee ineligible, then revocation</p>

Reporting false or misleading information to the Board (non-licensing matter)	TOC §164.052(a)(5) Rule 180.1	Remedial Plan - CME in ethics or risk management	Agreed Order: CME in ethics or risk management JP Exam; administrative penalty
Solicitation of patients/Drumming	TOC §165.155	Remedial plan (if no conviction): CME in ethics or risk management	Agreed Order: Public reprimand; chart signoff; administrative penalty; JP Exam, CME in ethics or referral to county attorney for prosecution as Class A misdemeanor under §165.155(e)
Standard of Care - one patient, no prior SOC or care-related violations	TOC §164.051(a)(6)	Remedial Plan*: CME in appropriate area *No RP if case concerns a patient death	Agreed Order: Proficiency testing; directed CME; chart monitor for 8 cycles; administrative penalty
Standard of care - one patient, one prior SOC or care-related violation	TOC §164.051(a)(6)	Agreed Order: Chart monitor for 8 cycles; directed CME, administrative penalty	Agreed Order: Limiting the practice of the person or excluding one or more specified activities of medicine; proficiency testing; directed CME; monitoring of the practice (either chart monitor for 12 cycles or supervising physician for a number of cases or specified period of time); public reprimand;

			administrative penalty
Standard of care - one patient, more than one prior SOC or care-related violation	TOC §164.051(a)(6);	Agreed Order: Limiting the practice of the person or excluding one or more specified activities of medicine; CME in appropriate topic; monitoring of the practice (either chart monitor for 12 cycles or supervising physician for a number of cases or specified period of time); administrative penalty; consider competency assessment	Agreed Order: K-STAR or PACE or equivalent proficiency testing; directed CME; chart monitoring (either chart monitor for 16 cycles or supervising physician for a number of cases or specified period of time), restricting the practice; withdrawal of prescribing privileges or delegating privileges; public reprimand; administrative penalty
Standard of care - more than one patient, no prior SOC or care-related violation	TOC §164.051(a)(6)	Agreed Order: Chart Monitor for 8 cycles; CME in appropriate area; administrative penalty; consider competency assessment	Agreed Order: Proficiency testing; CM in appropriate topic; chart monitor 12 cycles; public reprimand; administrative penalty
Standard of care - more than one patient, prior SOC or care-related violations	TOC §164.051(a)(6)	Agreed Order: Competency assessment; directed CME; monitoring for 12 cycles; requiring oversight or restricting of the practice; public reprimand; and administrative penalty	Suspension or revocation
Violation of Board Order	TOC §164.052(a)(5) Rule §180.1	Agreed Order: administrative penalty	Agreed Order: Low sanctions plus: extension of order's term; increase individual terms of

			the order; public reprimand; administrative penalty
Violation of state or federal law connected with physician's practice	TOC §164.053(a)(1)	If criminal law, see above under "Crime." If civil law, Remedial Plan or Agreed Order, as appropriate must pass JP Exam and CME in topic of risk management or ethics	Agreed Order: public reprimand; restriction of license; surrender of controlled substance privileges; plus low sanctions