

Texas Medical Board Press Release

FOR IMMEDIATE RELEASE

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Media contact: Leigh Hopper, 512-305-7018

Customer service: 512-305-7030 or 800-248-4062

Medical Board Disciplines 61 Physicians at November Meeting

At its November 3-4, 2011 meeting, the Texas Medical Board disciplined 61 physicians, and one surgical assistant and issued a cease-and-desist order. This news release also contains a summary of a cease-and-desist order issued in September.

(Click [here to skip to disciplinary actions.](#))

In addition, the Board issued 201 physician licenses at the November board meeting, bringing the total number of physician licenses issued in FY 12 to 654. Thirty-one percent of physician licensure applications were completed in 10 days or less.

RULE CHANGES ADOPTED

The following Rule Changes were adopted at the November 3-4, 2011 Board meeting:

CHAPTER 163. LICENSURE: Amendment to **§163.1**, relating to Definitions, amends language based on passage of House Bill 1380 (82nd Regular Session) that amended Chapter 155 of the Texas Occupations Code and changed the current graduate medical training requirement for graduates of foreign medical schools from three years to two years for purposes of obtaining a full Texas medical license. The amendment to **§163.2**, relating to Full Texas Medical License for Licensure, establishes an expedited licensure process for applicants who are military spouses in accordance with Senate Bill 1733 (82nd Regular Session). Amendment to **§163.6**, relating to Examinations Accepted for Licensure, in accordance with Senate Bill 867 (82nd Regular Session), provides that the Board will provide reasonable accommodations for those licensure applicants who have been diagnosed with dyslexia taking the jurisprudence examination.

The amendment to **§163.7**, relating to the 10-Year Rule, provides that applicants for licensure who have not passed an acceptable licensure examination within the 10 years prior to the date of application, must submit proof of passage of a monitored examination for board certification or recertification issued by a member board of the American Board of Medical Specialties or Bureau of

Osteopathic Specialists, or by the American Board of Oral and Maxillofacial Surgery, passed within the 10 years prior to date of applying for licensure. Current language allows for board certification examination or evaluation, which is inconsistent with the specialty boards' recent replacement of recertification with maintenance of continuous certification.

The amendment to **§163.11**, relating to Active Practice of Medicine, provides that applicants for licensure who have not actively practiced medicine within either of the two years prior to the date of application, must submit proof of passage of a monitored examination for board certification issued by a member board of the American Board of Medical Specialties or Bureau of Osteopathic Specialists, or by the American Board of Oral and Maxillofacial Surgery, passed within the two years prior to date of applying for licensure. Current language allows for examination or evaluation, which is inconsistent with the specialty boards' recent replacement of recertification with maintenance of continuous certification.

CHAPTER 167. REINSTATEMENT AND REISSUANCE: The amendment to **§167.8** provides that in general, the Texas Medical Board may not grant reinstatement or reissuance of a license to a licensee who has received a felony conviction in relation to sexual abuse against a child, in accordance with Senate Bill 263 (82nd Regular Session).

CHAPTER 171. POSTGRADUATE TRAINING PERMITS: The amendment to **§171.6** provides that a postgraduate training program director does not have to report to the Texas Medical Board if a program participant is on leave from a program based on military leave or family leave not related to the PIT holder's medical condition.

CHAPTER 172. TEMPORARY AND LIMITED LICENSES: The amendment to **§172.8** provides that two rather than three years practicing under a faculty temporary license shall be the equivalent of two years of postgraduate training for the purpose of full licensure in accordance with House Bill 1389 (82nd Regular Session). The amendment to **§172.12** provides that applicants for out-of-state telemedicine licenses who have not passed an acceptable licensure examination within the 10 years prior to the date of application must submit proof of passage of a monitored examination for board certification issued by a member board of the American Board of Medical Specialties or Bureau of Osteopathic Specialists, or by the American Board of Oral and Maxillofacial Surgery, passed within the ten years prior to date of applying for licensure. Current language allows for current board certification, which would include applicants who have been grandfathered and not required to pass monitored recertification examinations.

CHAPTER 175. FEES AND PENALTIES: The amendment to **§175.1**, concerning Application and Administrative Fees, removes all language relating to surcharges as this term is used only for internal agency purposes and its

removal eliminates confusion; increases the application fee for physician-in-training permits used to complete rotations in Texas by \$1 due to fee increases set by the Department of Information Resources; and sets the fee at \$18 for the processing of Physician/Physician Assistant Jointly-Owned Entity Annual Reports. The amendment to **§175.2**, concerning Registration and Renewal Fees, removes all language relating to surcharges as this term is used only for internal agency purposes and its removal eliminates confusion. The amendment to **§175.5**, concerning Payment of Fees or Penalties, provides that additional fees shall be incurred by individuals who renew their applications online or through hard-copy, depending on the format.

CHAPTER 178. COMPLAINTS: The amendment to **§178.2**, relating to Definitions, deletes language that allows persons to file anonymous complaints. The amendment to **§178.3**, relating to Complaint Procedure Notification, requires autopsy facilities to post notices on how to file complaints with the Board. The amendment to **§178.4**, relating to Complaint Initiation, establishes that licensees shall be provided the name and address of complainants who are insurance or pharmaceutical companies. The amendment to **§178.5**, relating to Preliminary Investigation of a Complaint, extends the preliminary investigation timeline from 30 to 45 days. New **§178.9**, relating to Statute of Limitations, creates statute of limitations of seven years for standard-of-care complaints (except for cases regarding minors) to match medical record retention requirements. These amendments were made in accordance with House Bill 680 and Senate Bill 256 (82nd Regular Session).

CHAPTER 180. TEXAS PHYSICIAN HEALTH PROGRAM AND REHABILITATION ORDERS: Amendment to **§180.4**, concerning Operation of Program, provides that all or part of the annual fee for program participation may be waived by the governing board, and establishes procedures for when the medical director requests advice from a case review panel.

CHAPTER 184. SURGICAL ASSISTANTS: The amendment to **§184.4**, relating to Qualifications for Licensure, establishes an expedited licensure process for applicants who are military spouses in accordance with Senate Bill 1733 (82nd Regular Session). The amendment to **§184.5**, relating to Procedural Rules for Licensure Applicants, provides for expiration of applications after one year and grounds for licensure application extensions that are consistent with those for medical licensure. The amendment to **§184.6**, relating to Licensure Documentation, provides that applicants must provide transcripts as part of the licensure application process, and that the Board may allow for substitute documentation after proof that an applicant has made exhaustive efforts to obtain documentation originally requested.

CHAPTER 187. PROCEDURAL RULES: A majority of the following amendments were made in accordance with House Bill 680 (82nd Regular Session). The amendment to **§187.2**, relating to Definitions, amends the definition

of "petition" to include appeals by applicants for licensure and adds definition for "remedial plan." The amendment to **§187.9**, relating to Board Actions, adds a process for the Board to issue nondisciplinary remedial plans for licensees. The amendment to **§187.13**, relating to Informal Board Proceedings Relating to Licensure Eligibility, adds a process for the Board to issue nondisciplinary remedial plans with applicants for licensure.

The amendment to **§187.14**, relating to Informal Resolution of Disciplinary Issues Against a Licensee, adds language on remedial plans and specifies that the Quality Assurance Committee may refer investigations to be heard at an informal settlement conference. The amendment to **§187.16**, relating to Informal Show Compliance Proceedings (ISCs), provides that for complaints filed with the Board after September 1, 2011, and that are scheduled for ISCs, 45 days before the scheduled ISC, Respondents must be given 45 days notice and copies of the information to be presented. The amendment to **§187.18**, relating to Informal Show Compliance Proceeding and Settlement Conference Based on Personal Appearance, provides that for complaints filed with the Board after September 1, 2011, and that are scheduled for informal settlement conferences (ISCs), Respondents must provide rebuttals 15 days before the scheduled ISCs. Also that upon request by a Respondent, the Board shall record an ISC and the Respondent shall be responsible for the cost. Also, ISC panels may recommend remedial plans in order to resolve complaints.

The amendment to **§187.19**, relating to Resolution by Agreed Order, includes references to remedial plans. The amendment to **§187.20**, relating to Board Action on Agreed Orders, includes references to remedial plans. The amendment to **§187.24**, relating to Pleadings, provides that in cases where applicants for licensure appeal ineligibility determinations, the applicants are responsible for filing petitions with the State Office of Administrative Hearings. The amendment to **§187.37**, relating to Final Decisions and Orders, provides that the Board may not change findings of fact or conclusions of law as determined by administrative law judges, but the Board may seek judicial review. In addition, all sanction determinations are to be determined by the Board. The amendment to **§187.38**, relating to Motions for Rehearing, establishes the process for the Board to seek judicial review of an ALJ determination by filing a motion for rehearing. The amendment to **§187.43**, relating to Proceedings for the Modification/Termination of Agreed Orders and Disciplinary Orders, provides that a licensee may not seek modification or termination of a remedial plan and an agreed order entered into by a licensee may not be subsequently converted into a remedial plan.

The amendment to **§187.55**, relating to Purpose, provides that the Board may temporarily restrict a license through a temporary restriction proceeding. The amendment to **§187.56**, relating to Convening a Disciplinary Panel, provides that prior to the scheduling of a temporary suspension or restricting hearing, the executive director shall provide names of board members to the board president

for appointment to the disciplinary panel. The amendment to **§187.57**, relating to Charge of the Disciplinary Panel, provides that the board may temporarily suspend or restrict the license of a licensee who has been arrested for a sexual assault crime against a child.

The amendment to **§187.58**, relating to Procedures Before the Disciplinary Panel, amends language to include language on temporary restrictions. The amendment to **§187.61**, relating to Ancillary Proceeding, amends language to include provisions for temporary restrictions and establishes that temporary restrictions or suspensions based on arrests for sexual assault crimes against a child are to remain in effect until there is a final disposition of a criminal matter when the licensee is sentenced. The amendment to **§187.62**, relating to Continuing Threat Constitutes a Danger to the Public, amends language to include provisions for temporary restrictions. The amendment to **§187.83**, relating to Complaints, Investigations, and Proceedings for Cease and Desist Orders, establishes procedures for public cease and desist hearings.

CHAPTER 190. DISCIPLINARY GUIDELINES: The amendment to **§190.8**, concerning Violation Guidelines, requires a physician that performs autopsies to obtain informed consent from a patient's authorized representatives, in accordance with House Bill 1009 (82nd Regular Session). The amendment to **§190.14**, concerning Disciplinary Sanction Guidelines, requires the Board to revoke a physician's license if placed on deferred adjudication, community supervision for an offense related to the sexual or aggravated assault of a child, continuous sexual abuse of a child, or indecency with a child. The amendment also requires the Board to suspend or restrict a physician's license for an arrest related to the sexual or aggravated assault of a child or indecency with a child. These changes are in accordance with Senate Bill 263 (82nd Regular Session).

CHAPTER 195. PAIN MANAGEMENT CLINICS: Amendments to **§195.2**, concerning Certification of Pain Management Clinics, and **§195.4**, concerning Operation of Pain Management Clinics, set out that in cases where a pain management clinic is owned by multiple physicians, only the medical director must submit an application for certification to the Board. Additional amendments include provisions relating to the temporary suspension of certification, confidentiality of the Board's records relating applications for and investigations of pain management clinics, and expiration of applications.

CHAPTER 198. UNLICENSED PRACTICE: The repeal of **§198.1**, relating to Purpose and **§198.2**, relating to Complaints, repeals the sections to be moved into Chapter 187 with no changes. The repeal of **§198.3**, relating to Investigation of Complaints, repeals the section to be moved into Chapter 187 with changes to cease and desist hearing to require a prima facie case before a hearing may be scheduled.

DISCIPLINARY ACTIONS

CRIMINAL CONVICTION/BEHAVIOR

Arafiles, Rolando German, Jr., Lic. No. K4855, Kermit

On November 4, 2011, the Board and Rolando German Arafiles, Jr., M.D., entered into a Voluntary Surrender Order in which Dr. Arafiles agreed to cease practice and voluntarily and permanently surrender his Texas Medical License on November 11, 2011. The action was based on Dr. Arafiles being charged with a felony; the Board accepted the surrender of Dr. Arafiles' Texas license in lieu of further disciplinary hearings.

Clardy, Christina Joy, M.D., Lic. No. G2929, Houston

On November 4, 2011, the Board and Christina Joy Clardy, M.D., entered into an Agreed Order of Voluntary Revocation, revoking her Texas medical license. Dr. Clardy is not licensed to practice in another state. The basis for action was Dr. Clardy's conviction in federal court for conspiracy, health care fraud and mail fraud.

Kim, Benjamin Hansuk, M.D., Lic. No. L3719, Plano

On November 4, 2011, the Board and Benjamin Hansuk Kim, M.D., entered into an Agreed Order requiring Dr. Kim to pass within one year the Medical Jurisprudence Examination within three attempts. The Board found Dr. Kim fraudulently obtained controlled substances for himself by altering a prescription so he could obtain multiple refills. Dr. Kim was charged with a felony and is currently participating in a pre-trial diversion program; charges will be dropped upon Dr. Kim's successful completion of the program.

Paige, Robert Warren, M.D., Lic. No. D7230, Amarillo

On November 4, 2011, the Board and Robert Warren Paige, M.D., entered into an Agreed Order revoking his license, staying the revocation and placing him on probation under certain terms and conditions: Dr. Paige must pass within one year and within three attempts the Medical Jurisprudence Examination and complete for each of the next two years 12 hours of CME in ethics. The Board found Dr. Paige was convicted of a felony unrelated to the practice of medicine.

QUALITY OF CARE

Anabtawi, Isam, M.D., Lic. No. D5588, Port Arthur

On November 4, 2011, the Board and Isam Anabtawi, M.D., entered into an Agreed Order in which Dr. Anabtawi agreed to surrender his Texas medical license effective February 4, 2012, to allow him to wind down his practice and ensure the proper transfer of care for his patients to another physician. This Order resolves any and all complaints currently before the Board.

Andrews, Sarah Elizabeth, M.D., Lic. No. H9753, Katy

On November 4, 2011, the Board and Sarah Elizabeth Andrews, M.D., entered into an Agreed Order requiring Dr. Andrews to complete within one year the

Knowledge, Skills, Training, Assessment and Research (KSTAR) clinical competency assessment program offered by Texas A&M and complete all retraining, remedial measures or other recommendations made by KSTAR; and complete within one year 16 hours of CME including eight hours in high-risk OB delivery and eight hours in surgical complication. The action was based on Dr. Andrews' failure to practice medicine in an acceptable, professional manner and safeguard against potential complications in her postpartum care of a patient who had a cesarean section by failing to promptly return to the operating room for surgical intervention, which resulted in massive blood loss, cardiac arrest and resulting anoxic brain injury.

Barbaro, Salvatore Arlindo, III, M.D., Lic. No. J7900, San Antonio

On November 4, 2011, the Board and Salvatore Arlindo Barbaro III, M.D., entered into an Agreed Order requiring Dr. Barbaro 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 pay an administrative penalty of \$1,000 within 90 days. The action was based on Dr. Barbaro's failure to maintain adequate medical records, failure to use diligence and failure to safeguard against potential complications.

Bell, Todd Edward, M.D., Lic. No. M2560, Amarillo

On November 4, 2011, the Board and Todd Edward Bell, M.D., entered into an Agreed Order requiring Dr. Bell to pass within one year and within three attempts the Medical Jurisprudence Examination, complete within one year 16 hours of CME including eight hours in medical record-keeping and eight hours in risk management and pay an administrative penalty of \$3,000 within 60 days. The Board found Dr. Bell failed to adequately supervise an Advance Practice Nurse acting under his supervision and prescribing controlled substances under his authority; and , failed to keep complete and accurate records of purchases and disposals of drugs.

Benavides, German, M.D., Lic. No. F0877, San Antonio

On November 4, 2011, the Board and German Benavides, M.D., entered into an Agreed Order requiring Dr. Benavides to complete within one year 20 hours of CME including four hours in risk management, eight hours in wound care and eight hours in complex orthopedic cases; and pay an administrative penalty of \$2,000 within 60 days. The Board found Dr. Benavides failed to meet the standard of care in his treatment of a patient, who suffered an open fracture on her ankle, by failing to order adequate antibiotic treatment post-operatively.

Bennack, Laura J., M.D., Lic. No. K0261, San Antoni

On November 4, 2011, the Board and Laura J. Bennack, M.D., entered into an Agreed Order requiring Dr. Bennack to have her practice monitored by another physician for eight monitoring cycles, complete within one year 16 hours of CME including eight in cosmetic surgery and eight in office-based surgery in cosmetic

procedures and pay an administrative penalty of \$1,000 within 60 days. The Board found that Dr. Bennack, who performs cosmetic surgery in her clinic including breast augmentation and liposuction failed to meet the standard of care and maintain adequate medical records related to the surgical care and treatment of 10 patients.

Cardenas, Richard K., M.D., Lic. No. G2525, Weatherford

On November 4, 2011, the Board and Richard K. Cardenas, M.D., entered into an Agreed Order requiring Dr. Cardenas to have a physician monitor his practice for eight monitoring cycles, within one year pass the Special Purpose Examination and the Medical Jurisprudence Examination, complete within one year 30 hours of CME including 10 hours in medical record-keeping, 10 hours in high-risk obstetrics and 10 hours in ob/gyn emergencies and pay an administrative penalty of \$5,000 within 90 days and participate in the Texas Physician Health Program. The Board found Dr. Cardenas failed to meet the standard of care when he proceeded to surgery without full evaluations and assessments of the patients and without counseling some patients about alternative or less dangerous treatments. In addition, Dr. Cardenas was subject to disciplinary action taken by his peers and failed to maintain adequate medical records supporting treatments provided.

DeMaio, Samuel J., M.D., Lic. No. G6655, El Paso

On November 4, 2011, the Board and Samuel J. DeMaio, M.D., entered into a Mediated Agreed Order resolving a Formal Complaint filed against him at the State Office of Administrative Hearings and requiring Dr. DeMaio complete within one year 30 hours of CME including 10 hours in medical record-keeping, 15 hours in the topic of cardiac stenting procedures and five hours in ethics; have another physician monitor his practice for eight monitoring cycles; and pay an administrative penalty of \$10,000 within 90 days. The Board found Dr. DeMaio failed to practice medicine in an acceptable professional manner when he placed multiple overlapping stents in areas of insignificant or moderate disease and that Dr. DeMaio's reading of angiography film as it relates to percentage of arterial occlusion was flawed.

Edlin, John Charles, M.D., Lic. No. E1307, Dallas

On November 4, 2011, the Board and John Charles Edlin, M.D., entered into an Agreed Order requiring Dr. Edlin to complete within one year 16 hours of CME including eight hours in medical record-keeping and eight hours in diagnosis and treatment of ADHD in adults and pay an administrative penalty of \$2,000 within 60 days. The Board found Dr. Edlin's medical records for a patient were inadequate to support the diagnosis of ADHD and the medications he prescribed and that Dr. Edlin failed to safeguard against potential complications and engaged in nontherapeutic prescribing.

Gil, Jose D., M.D., Lic. No. F0105, Miami FL

On November 4, 2011, the Board and Jose D. Gil, M.D., entered into an Agreed

Order requiring Dr. Gil to cease practice in Texas until he requests permission in writing to the Board and provides sufficient evidence and information to the Board that adequately indicates that Dr. Gil is physically and mentally competent to safely practice. In addition, Dr. Gil must pay an administrative penalty of \$2,000 within 90 days. The Board found Dr. Gil non-therapeutically prescribed controlled substances to two patients.

Hailparn, Troy R., M.D., Lic. No. J6125, San Antonio

On November 4, 2011, the Board and Troy R. Hailparn, M.D., entered into a Mediated Agreed Order resolving a Formal Complaint filed by the Board at the State Office of Administrative Hearings and requiring Dr. Hailparn to have another physician monitor Dr. Hailparn's practice for eight monitoring cycles, complete within one year 10 hours of CME in medical record-keeping and pay an administrative penalty of \$3,000 within 180 days. The basis for action was Dr. Hailparn's failure to meet the standard of care for patients who presented for pelvic reconstructive surgery, failure to disclose reasonable alternatives and failure to maintain adequate medical records.

Kobza, Paul Edward, D.O., Lic. No. L4499, The Woodlands

On November 4, 2011, the Board and Paul Edward Kobza, D.O., entered into an Agreed Order requiring Dr. Kobza to pass within one year and within three attempts the Medical Jurisprudence Examination and complete within one year eight hours of CME in risk management. The Board found Dr. Kobza failed to keep medical records or document a physical exam for a patient, a professional colleague for whom Dr. Kobza non-therapeutically prescribed controlled drugs. The patient subsequently died of a drug overdose as a result of medications prescribed by Dr. Kobza and other substances not prescribed by Dr. Kobza.

O'Hearn, Charles John, M.D., Lic. No. H5676, Coppel

On November 4, 2011, the Board and Charles John O'Hearn, M.D., entered into an Agreed Order requiring Dr. O'Hearn to pass within one year and within three attempts the Medical Jurisprudence Examination, complete within one year 16 hours of CME including eight in medical record-keeping and four in risk management and four in ethics, and pay an administrative penalty of \$3,000 within 60 days. The Board found Dr. O'Hearn wrote prescriptions for diet pills and anti-anxiety medication for five patients without performing proper evaluations or physical exams and without maintaining adequate medical records.

Perry, Thomas Clement, M.D., Lic. No. K6233, Sour Lake

On November 4, 2011, the Board and Thomas Clement Perry, M.D., entered into an Agreed Order requiring Dr. Perry to refrain from treating chronic pain patients except in a hospital or hospital-affiliated clinic setting, refrain from prescribing controlled substances with addictive potential except in a hospital setting where Dr. Perry has privileges or in a hospital-affiliated clinic setting; pass within one year and within three attempts the Medical Jurisprudence Examination; and pay an administrative penalty of \$3,000 within 60 days. In addition, Dr. Perry is not

permitted to supervise or delegate prescriptive authority to physician extenders except in a hospital or hospital-associated clinic setting. The Board found Dr. Perry failed to meet the standard of care, prescribed in a nontherapeutic manner, failed to adhere to guidelines for treatment of chronic pain for 30 patients and failed to adequately supervise his delegate.

Pinckney, Cwanza Aretha, M.D., Lic. No. M6830, Houston

On November 4, 2011, the Board and Cwanza Aretha Pinckney, M.D., entered into an Agreed Order publicly reprimanding Dr. Pinckney and requiring her to comply with DEA requirements that restrict her from treating chronic pain and require her to make quarterly reports to the DEA detailing the total number of prescriptions for controlled substances. In addition, the Order restricts Dr. Pinckney from prescribing or administering any controlled substances or dangerous drugs except as medically necessary for treatment of inpatients in an emergency room where Dr. Pinckney has privileges and requires Dr. Pinckney to pass within one year and within three attempts the Medical Jurisprudence Exam; complete within one year 24 hours of CME including eight hours in medical record-keeping, eight hours in identifying drug-seeking behavior and eight hours in ethics; undergo an independent medical evaluation by an approved psychiatrist and comply with recommended care and treatment; and pay an administrative penalty of \$11,000 within 180 days. The Board found Dr. Pinckney failed to meet the standard of care, violated Board Rules by operating a pain clinic owned by a non-physician, prescribed to a known abuser of narcotic drugs; and that Dr. Pinckney and those working under her supervision non-therapeutically prescribed the same or a similar combination to narcotics, benzodiazepines and/or carisoprodol to patients.

Reyes-Pescador, Carlos, M.D., Lic. No. G4693, Rockwall

On November 4, 2011, the Board and Carlos Reyes-Pescador, M.D., entered into a Mediated Agreed Order resolving a Formal Complaint filed by the Board at the State Office of Administrative Hearings and requiring Dr. Reyes-Pescador to have another physician monitor his practice for 12 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, complete within one year the physician prescribing course offered by PACE and pay an administrative penalty of \$5,000 within 180 days. The basis for action was Dr. Reyes-Pescador's failure to meet the standard of care or comply with guidelines for the use of pain medicines and his non-therapeutic prescribing.

Rodriguez, Francisco J., M.D., Lic. No. D3082, San Antonio

On November 4, 2011, the Board and Francisco Jose Rodriguez, M.D., entered into a Mediated Agreed Order resolving a Formal Complaint filed by the Board at the State Office of Administrative Hearings and requiring Dr. Rodriguez to have his practice monitored by another physician for 12 monitoring cycles, complete within 18 months the medical record-keeping course offered by the University of California San Diego Physician Assessment and Clinical Education (PACE)

program, complete within 18 months 16 hours of CME in psychopharmacology and pay an administrative penalty of \$1,000 within 60 days. The Board found Dr. Rodriguez failed to maintain adequate medical records, failed to treat a patient according to the generally accepted standard of care and prescribed drugs in a manner inconsistent with public health and welfare.

Salinas, Fulgencio P., M.D., Lic. No. G7325, Brownsville

On November 4, 2011, the Board and Fulgencio P. Salinas, M.D., entered into an Agreed Order requiring Dr. Salinas to refrain from allowing unlicensed persons to perform joint injections, to provide the Board within 30 days a written policy on office procedures to handle autopsy requests and reports from families or their delegates, have his practice monitored by another physician for six monitoring cycles, pass within one year and within three attempts the Medical Jurisprudence Examination, complete within one year 24 hours of CME including eight hours in medical record-keeping and 16 hours in general rheumatology and pay an administrative penalty of \$5,000 within 180 days. The Board found Dr. Salinas failed to maintain adequate medical records and failed to release medical records in a timely manner, failed to practice medicine in an acceptable professional manner, engaged in unprofessional conduct, non-therapeutically prescribed or administered a drug or treatment and delegated professional medical responsibility to an unqualified person.

Saunders, R. Craig, M.D., Lic. No. J2779, Keller

On November 4, 2011, the Board and R. Craig Saunders, M.D., entered into an Agreed Order prohibiting Dr. Saunders from performing any procedures in his office that involve conscious sedation or in-office anesthesia until his office and procedures receive accreditation. In addition, the Order requires that: Dr. Saunders complete within one year 16 hours of CME including eight hours in physician-patient communication and eight hours in medical record-keeping, pass within one year and within three attempts the Medical Jurisprudence Examination and pay an administrative penalty of \$7,000 within 60 days.

Slater, James L., II, D.O., Lic. No. L6184, Richardson

On November 4, 2011, the Board and James Lee Slater, II, D.O., entered into a Mediated Agreed Order resolving a Formal Complaint filed by the Board at the State Office of Administrative Hearings and requiring Dr. Slater to undergo an independent medical evaluation and comply with any continued care and treatment, have his practice monitored by another physician for 12 monitoring cycles, complete within one year 30 hours of coursework in the area of pain management and pass within one year and within three attempts the Medical Jurisprudence Examination. The Board found Dr. Slater failed to comply with Board guidelines for the treatment of pain and failed to meet the standard of care.

Spencer, Mark Louis, D.O., Lic. No. L1207, Temple

On November 4, 2011, the Board and Mark Louis Spencer, D.O., entered into an Agreed Order requiring Dr. Spencer to complete within one year the Maintaining

Proper Boundaries course offered by The Center for Professional Health at Vanderbilt University, pass within one year and within three attempts the Medical Jurisprudence Examination, complete within one year eight hours of CME in medical record-keeping and pay an administrative penalty of \$2,000 within 60 days. The Board found Dr. Spencer engaged in unprofessional conduct, inappropriately prescribed controlled substances to someone with whom there was a close, personal relationship and failed to comply with Board guidelines for treatment of pain when he wrote a narcotic prescription with four refills for a former co-worker without keeping adequate medical records.

Taube, Justina Pepple, M.D., Lic. No. J4553, Friendswood

On November 4, 2011, the Board and Justina Pepple Taube, M.D., entered into an Agreed Order publicly reprimanding Dr. Taube and requiring her to complete within one year the professional boundaries course offered by The Center for Professional Health at Vanderbilt University, pass within one year and within three attempts the Medical Jurisprudence Exam, complete within one year 16 hours of CME including eight hours in medical record-keeping, four hours in the treatment of anxiety and four hours in the treatment of obesity and pay an administrative penalty of \$5,000 within 60 days. The action was based on Dr. Taube's nontherapeutic prescribing, failure to meet the standard of care and unprofessional conduct by becoming financially involved with a patient in an inappropriate manner.

True, Robert L., M.D., Lic. No. H0117, Colleyville

On November 4, 2011, the Board and Robert Leroy True, M.D., entered into a Mediated Agreed Order resolving a Formal Complaint filed by the Board at the State Office of Administrative Hearings and requiring Dr. True to complete within one year eight hours of CME in the subject of treating gastrointestinal complications during pregnancy and pay an administrative penalty of \$1,000 within 60 days. The basis for action was Dr. True's failure to treat a patient according to the standard of care by failing to diagnose clostridium difficile.

Young, John William, M.D., Lic. No. D6352, Houston

On November 4, 2011, the Board and John William Young, M.D., entered into an Agreed Order requiring Dr. Young to have another physician monitor his practice for 12 monitoring cycles, within 180 days complete the physician prescribing course offered by the University of California San Diego Physician Assessment and Clinical Education (PACE) program, complete within each of the next two years 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 \$1,500 within 60 days. In addition, Dr. Young is not permitted to supervise or delegate prescriptive authority to physician extenders for at least one year. The action was based on Dr. Young's failure to meet the standard of care, non-therapeutic prescribing controlled substances and dangerous drugs to 15 patients and failure to comply with Board rules for prescribing pain medications.

UNPROFESSIONAL CONDUCT

Axline, Bradley Park, M.D., Lic. No. J8198, Lewisville

On November 4, 2011, the Board and Bradley Park Axline, M.D., entered into an Agreed Order publicly reprimanding Dr. Axline and subjecting him to the following terms and conditions for five years: Obtain an independent medical evaluation from a psychiatrist within 30 days and follow all recommendations regarding continued care and treatment, complete within one year the professional boundaries course offered by the University of California San Diego Physician Assessment and Clinical Education (PACE) program and pass within one year and within three attempts the Medical Jurisprudence Examination. The action was based on Dr. Axline's unprofessional conduct when he was charged with assault causing bodily injury and resisting arrest and his writing prescriptions for a patient after the purported termination of the physician-patient relationship.

Cruz, Ramon Apostol, M.D., Lic. No. K3703, Denton

On November 4, 2011, the Board and Ramon Apostol Cruz, M.D., entered into an Agreed Order requiring Dr. Cruz to obtain a mentoring physician and have his practice monitored by another physician with expertise in family practice for four monitoring cycles. The basis for action was Dr. Cruz's becoming personally involved with a patient.

Gorman, Mary Gwen, M.D., Lic. No. H3249, Austin

On November 4, 2011, the Board and Mary Gwen Gorman, M.D., entered into a 10-year Agreed Order publicly reprimanding Dr. Gorman and requiring her to pass within one year and within three attempts the Medical Jurisprudence Exam, undergo an independent medical evaluation by a psychiatrist and follow recommendations regarding continued care and treatment, abstain from consumption of prohibited substances except as prescribed by another physician for legitimate and documented therapeutic purposes and participate in AA or a similar program three times a week. In addition, Dr. Gorman may not possess or prescribe any controlled substances or dangerous drugs except as medically necessary for inpatients in a hospital setting where Dr. Gorman has privileges. The Board found Dr. Gorman failed to practice medicine in an acceptable professional manner and prescribed dangerous drugs or controlled substances without first establishing a proper professional relationship with the patient. In addition, Dr. Gorman was arrested for driving without a license in February 2011; a search of her purse revealed medications not prescribed to her.

Jones, Andrew P., M.D., Lic. No. H1972, Sugar Land

On November 4, 2011, the Board and Andrew P. Jones, M.D., entered into a Mediated Agreed Order publicly reprimanding Dr. Jones and resolving a Formal Complaint filed by the Board at the State Office of Administrative Hearings. The Order requires Dr. Jones to pass within one year and within three attempts the Medical Jurisprudence Exam, complete eight hours of CME in ethics and pay an administrative penalty of \$10,000 within 60 days. The Board found Dr. Jones

violated Board rules that govern the use of the internet in medical practice, used false or misleading advertising, non-therapeutically prescribed drugs or treatment and failed to practice medicine in an acceptable professional manner.

Kilgore, Michael Ray, M.D., Lic. No. H1123, McAllen

On November 4, 2011, the Board and Michael Ray Kilgore, M.D., entered into an Agreed Order requiring Dr. Kilgore to complete within one year eight hours of CME in medical record-keeping, pass within one year and within three attempts the Medical Jurisprudence Examination, pay an administrative penalty of \$5,000 within 60 days and within 90 days submit written office policies that address the receipt, inventory, storage arrangements and responsibility for drug samples. The action was based on Dr. Kilgore's failure to cooperate with Board staff and failure to maintain drug sample dispensing logs.

Koch, Justin Lee, M.D., Lic. No. M7339, Dallas

On November 4, 2011, the Board and Justin Lee Koch, M.D., entered into an Agreed Order requiring Dr. Koch to pay an administrative penalty of \$5,000 within 60 days. The action was based on Dr. Koch's violation of his 2009 Order.

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

On November 4, 2011, the Board and Stephen Harkness Smith, M.D., entered into an Agreed Order requiring Dr. Smith to undergo an independent medical evaluation by a board-certified psychiatrist and follow all recommendations, and pay an administrative penalty of \$1,000 within 60 days. The basis for action was Dr. Smith's failure to timely respond to communications from the Board, failure to properly comply with Board rules regarding the closure of his medical practice and his unprofessional conduct toward a former patient.

Voskuhl, Gene Wayne, M.D., Lic. No. N1945, Dallas

On November 4, 2011, the Board and Gene Wayne Voskuhl, M.D., entered into an Agreed Order publicly reprimanding Dr. Voskuhl and requiring him to have a chaperone present when he examines a patient, complete within one year eight hours of CME in ethics, complete within one year the professional boundaries course offered by the Center for Professional Health at Vanderbilt University, pay an administrative penalty of \$3,000 within 60 days and give a copy of this Agreed Order to any and all current and prospective employers. The action was based on Dr. Voskuhl's unprofessional conduct when he engaged in sexually inappropriate behavior with a patient.

REVOCAATION

Collier, John Clayton, M.D., Lic. No. K0279, Dallas

On November 4, 2011, the Board entered a Default Order revoking the license of John Clayton Collier, M.D. The basis for action was Dr. Collier's failure to provide requested records for six patients, failure to respond to Board requests for information or to a Board subpoena. The Board found Dr. Collier obstructed the

Board's ability to analyze his prescribing practices, which poses a risk to the public.

Gibson, Donald, II, M.D., Lic. No. H5209, Houston

On November 4, 2011, the Board entered a Final Order revoking the license of Donald Gibson II, M.D., and resolving a formal complaint filed against Dr. Gibson by the Board at the State Office of Administrative Hearings. The Board found Dr. Gibson failed to comply with Orders issued against him in 2008, 2009 and 2010 and continued writing prescriptions for Schedule II and III drugs after the Board withdrew his authority to do so.

VOLUNTARY SUSPENSION

Harris, Sabrina Denise, M.D., Lic. No. J2057, Austin

On November 4, 2011, the Board and Sabrina Denise Harris, M.D., entered into an Agreed Order of Voluntary Suspension, suspending Dr. Harris's license until she requests in writing to have the suspension lifted and provides clear and convincing information that indicates that she is physically, mentally and otherwise competent to safely practice medicine. The Board found Dr. Harris is unable to practice medicine safely due to a mental condition.

VOLUNTARY SURRENDER

Brashear, Doyle Hubbard, M.D., Lic. No. C4954, Lufkin

On November 4, 2011, the Board and Doyle Hubbard Brashear, M.D., entered into an Agreed Voluntary Surrender Order in which Dr. Brashear agreed to voluntarily and permanently surrender his medical license in lieu of fulfilling the terms of his April 2010 Agreed Order, which was based on his failure to maintain adequate medical records, and his failure to follow board rules on the treatment of pain.

Campbell, Andrew William, M.D., Lic. No. G7790, Houston

On November 4, 2011, the Board entered a Voluntary Surrender Order regarding Andrew William Campbell, M.D., requiring Dr. Campbell to immediately cease practice in Texas. The surrender resolves any complaints before the Board including Dr. Campbell's June 2011 Final Order (SOAH Case No. 503-04-5717). Dr. Campbell stated that he is unable to comply with certain provisions of the Final Order due to financial and health reasons.

Castro-Borrero, Wanda, M.D., Lic. No. M9199, Farmington CT

On November 4, 2011, the Board and Wanda Castro-Borrero, M.D., entered into an Agreed Voluntary Surrender Order, in which the Board accepted the voluntary and permanent surrender of Dr. Castro-Borrero's Texas medical license. Dr. Castro-Borrero is primarily engaged as medical school faculty in Connecticut.

Dickey, William James, M.D., Lic. No. D0445, Houston

On November 4, 2011, the Board and Williams James Dickey, M.D., entered into an Agreed Voluntary Surrender Order in which Dr. Dickey, 81, agreed to permanently surrender his Texas medical license in lieu of further proceedings related to the maintaining of adequate medical records for a number of patients.

Ho, Richard Kay-Yin, M.D., Lic. No. F6254, Cupertino CA

On November 4, 2011, the Board and Richard Kay-Yin Ho, M.D., entered into an Agreed Voluntary Surrender Order in which Dr. Ho permanently surrendered his Texas medical license in lieu of further proceedings. The Board found that Dr. Ho was the subject of a disciplinary action by the California Medical Board in 1996 and did not update his profile with the TMB; Dr. Ho has no plans to return to medical practice in Texas.

IMPAIRMENT

Dobson, Walter Albert, D.O., Lic. No. F2636, Grand Prairie

On November 4, 2011, the Board and Walter Albert Dobson, D.O., entered into an Agreed Order suspending Dr. Dobson's license and requiring him to undergo a professional assessment, abstain from prohibited substances, participate in the Board's drug testing program, participate in AA or a similar program five times a week and refrain from supervising or delegating prescriptive authority to physician extenders. The basis for action is Dr. Dobson's inability to practice medicine with reasonable skill and safety to patients because of excessive use of drugs and his mental condition caused by a traumatic brain injury.

Fontenot, William Lindsey, M.D., Lic. No. L0176, Lawrenceburg TN

On November 4, 2011, the Board and William Lindsey Fontenot, M.D., entered into an Agreed Order that bars Dr. Fontenot from practicing in Texas until he requests in writing to do so, personally appears before the Board and provides sufficient evidence that he is physically and mentally competent to safely practice. Dr. Fontenot was disciplined by the Tennessee Board of Medical Examiners based on his impairment due to alcoholism and unprofessional conduct related to misdemeanor convictions related to driving while intoxicated and possession of a firearm while intoxicated.

Read, Edwin, M.D., Lic. No. C1974, Grand Prairie

On November 4, 2011, the Board and Edwin Read, M.D., entered into an Agreed Voluntary Surrender Order in which Dr. Read, who is 87, agreed to permanently surrender his Texas medical license due to significant physical health problems.

INADEQUATE MEDICAL RECORDS

Burman, Gary R., M.D., Lic. No. J1204, Houston

On November 4, 2011, the Board and Gary R. Burman, M.D., entered into a Mediated Agreed Order resolving a Formal Complaint filed against him at the

State Office of Administrative Hearings and requiring Dr. Burman to complete within one year 10 hours of CME in medical record-keeping and pay an administrative penalty of \$500 within 90 days. The Board found Dr. Burman failed to maintain adequate medical records.

Chapman, Jack A., M.D., Lic. No. H4227, Spring

On November 4, 2011, the Board and Jack A. Chapman, M.D., entered into a Mediated Agreed Order requiring Dr. Chapman to have his practice monitored by another physician for four monitoring cycles, pass within one year and within three attempts the Medical Jurisprudence Examination, 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 \$1,000 within 60 days. The Board found Dr. Chapman failed to follow Board guidelines for the treatment of pain and failed to maintain adequate medical records. The Order resolves a Formal Complaint against Dr. Chapman filed by the Board at the State Office of Administrative Hearings.

Mushtaha, Akram Adel, M.D., Lic. No. J0781, Pasadena

On November 4, 2011, the Board and Akram Adel Mushtaha, M.D., entered into a Mediated Agreed Order resolving a formal complaint against Dr. Mushtaha filed by the Board at the State Office of Administrative Hearings and requiring Dr. Mushtaha 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. The Board found Dr. Mushtaha failed to maintain adequate medical records for five pediatric patients.

Niamatali, Habiboola, M.D., Lic. No. G1133, Dallas

On November 4, 2011, the Board and Habiboola Niamatali, M.D., entered into an Agreed Order requiring Dr. Niamatali to complete within one year 16 hours of CME including eight hours in medical record-keeping and eight hours in risk management. The Board found Dr. Niamatali failed to maintain adequate medical records for one patient and terminated that patient's care without reasonable notice to the patient.

Spurlock, William M., M.D., Lic. No. J7209, Dallas

On November 4, 2011, the Board and William Marcus Spurlock, M.D., entered into a Mediated Agreed Order resolving a Formal Complaint filed by the Board at the State Office of Administrative Hearings and requiring Dr. Spurlock to have his practice monitored by another physician for 12 monitoring cycles and complete within one year eight hours of CME in medical record-keeping. The Board found Dr. Spurlock failed to exercise diligence in his practice and failed to maintain adequate records.

Syed, Shahid Hussain, M.D., Lic. No. K4259, Spring

On November 4, 2011, the Board and Shahid Hussain Syed, M.D., entered into an Agreed Order requiring Dr. Syed to complete within one year eight hours of CME

in medical record-keeping. The Board found Dr. Syed failed to maintain adequate medical records for one patient.

Wang, Bo, M.D., Lic. No. K6949, Plano

On November 4, 2011, the Board and Bo Wang, M.D., entered into an Agreed Order requiring Dr. Wang to pay an administrative penalty of \$1,000 within 60 days. The Board found Dr. Wang failed to keep adequate medical records for one patient.

RULES VIOLATION/ADMINISTRATIVE

Bain, Deborah Z., M.D., Lic. No. J6315, Frisco

On November 4, 2011, the Board and Deborah Z. Bain, M.D., entered into an Agreed Order requiring Dr. Bain to complete within one year 12 hours of CME including four hours in medical record-keeping and eight hours in diagnosis and treatment of failure-to-thrive according to the American Academy of Pediatrics. The Board found Dr. Bain violated Board rules regarding standards for physicians practicing complementary and alternative medicine.

Kern, Susan B., M.D., Lic. No. G6785, Houston

On November 4, 2011, the Board and Susan B. Kern, M.D., entered into a Mediated Agreed Modification Order, modifying her 2007 Agreed Order and requiring Dr. Kern to limit her practice to research medicine and see patients only as part of institutional and investigative research approved in advance by the Board. In addition, Dr. Kern shall not have any hospital privileges and shall provide a copy of this Order to the group or institutional setting administrator where she works. This Order resolves a Formal Complaint filed against Dr. Kern at the State Office of Administrative Hearings.

Martin, Dorothy V., M.D., Lic. No. H2565, Richardson

On November 4, 2011, the Board and Dorothy Victoria Bills Martin, M.D., entered into a Mediated Agreed Order resolving a Formal Complaint filed against her at the State Office of Administrative Hearings and requiring Dr. Martin to complete within one year eight hours of CME in prescribing controlled substances or risk management and pay an administrative penalty of \$2,500 within 60 days. The basis for action was Dr. Martin's violation of Board Rules prohibiting the pre-signing of prescription pads for controlled substances.

Nadela, Siegfredo Montes, M.D., Lic. No. F2816, San Antonio

On November 4, 2011, the Board and Siegfredo Montes Nadela, M.D., entered into an Agreed Order requiring Dr. Nadela 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 the physician prescribing course offered by PACE and complete within one year eight hours of CME in ethics and refrain from obtaining DEA or DPS controlled substance registrations until Dr. Nadela has written authorization from

the Board. The basis for action was Dr. Nadela's violation of state law by pre-signing DPS controlled substances official prescription forms.

ADVERTISING VIOLATION

Pena, Raul A., M.D., Lic. No. L0504, McAllen

On November 4, 2011, the Board and Raul A. Pena, M.D., entered into a Mediated Agreed Order requiring Dr. Pena to pay an administrative penalty of \$500 within 60 days. The Board found Dr. Pena violated Board rules relating to false or misleading advertisements. The Order resolves a Formal Complaint against Dr. Pena filed by the Board at the State Office of Administrative Hearings.

SURGICAL ASSISTANT ACTION

Marrero, Dennis, S.A., Lic. No. SA-00044

On November 4, 2011, the Board entered a Default Order revoking the surgical assistant license of Dennis Marrero. The basis for action was Mr. Marrero's failure to respond to Board allegations that he falsely held himself out as a physician assistant, falsified medical records, practiced medicine without a license, was the subject of discipline by a hospital and provided false information to the Board.

CEASE AND DESIST

Diruzzo, Joseph A., No License, Plano

On September 19, 2011, the Board entered an Automatic Cease and Desist Order regarding Joseph A. Diruzzo, prohibiting Mr. Diruzzo from practicing medicine and/or alternative or complementary medicine. The Board found Mr. Diruzzo, who is not licensed as a physician in Texas, offered treatments for medical disorders in exchange for compensation, promoted himself as a "chiropractic physician" known as "Dr. Joe" and "Dr. Joseph A. Diruzzo" and appeared dressed as a physician in a medical setting.

Bodin, Daniel Victor, No License, Houston

On November 4, 2011, the Board and Daniel Victor Bodin entered into a Mediated Agreed Cease and Desist Order prohibiting Mr. Bodin, who does not have a Texas medical license, from practicing medicine in Texas. The Board found Mr. Bodin used "M.D." with his name, which could be misleading to the public.

FAST TRACK ORDERS

The board issued one order for a minor statutory violation.

