

2004 Press Releases

Thursday, December 16 , 2004

42 Doctors Disciplined

During its December 9-10 Board meeting, the Texas State Board of Medical Examiners took disciplinary action against 37 licensed physicians, who received one or more of the following actions: six surrenders/revocations, with one stayed and probated; four suspensions, with one stayed and probated; 12 restrictions; five public reprimands; and 16 administrative penalties totaling \$24,500. The board temporarily suspended the licenses of four physicians and temporarily restricted the license of one physician since the last board meeting. The board also took action against two acupuncturists. In addition, the Texas State Board of Physician Assistant Examiners, at its November 5 meeting, took action against two physician assistants.

New Licenses Issued

During its December 9-10 Board meeting, the Board approved the licensure applications of 354 physicians.

Rule Changes

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

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

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

Chapter 172, Temporary Licenses: Amendments to §172.10 relating to Department of State Health Services (DSHS) Medically Underserved Area (DSHS-MUA) temporary licenses.

Chapter 175, Fees, Penalties & Applications. Rule review and amendments to §175.1 regarding fees for Physician In Training permits.

Chapter 183, Acupuncture. Amendments to §183.2(19) concerning full NCCAOM examination.

Chapter 186, Supervision of Physician Assistant Students. Repeal of chapter.

Chapter 193, Standing Delegation Orders. Amendment to §193.6 regarding delegation of carrying out or signing of prescription drug orders to Physician Assistants and Advanced Nurse Practitioners.

Proposed Rule Changes

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

Chapter 170, Authority of Physician to Prescribe for the Treatment of Pain. Proposed repeal of existing chapter and creation of a new chapter regarding the need for patients of Texas to have optimal pain management.

Chapter 183, Acupuncture. Proposed amendment to § 183.20(c) relating to reporting of CME for acupuncturists on-line.

Disciplinary Actions

The following are summaries of the Board actions. The full text of the Board orders will be available on the board's web site at www.tsbme.state.tx.us about 10 days after the Board meeting. The orders provide all information that is public regarding the facts of the case and violations of the law.

ASMUSSEN, MAURICE DWAYNE, MD., LUBBOCK, TX, Lic. #H7873

On December 10, 2004, the Board and Dr. Asmussen entered into an Agreed Order suspending Dr. Asmussen's license. The action was based on Dr. Asmussen's drug addiction.

BACON, ROBERT J., JR., MD., HOUSTON, TX, Lic. #F0861

On December 10, 2004, the Board and Dr. Bacon entered into an Agreed Order assessing a \$500 administrative penalty. The action was based on allegations that Dr. Bacon did not complete required CME hours in a timely manner.

BAKER, RAY DON, MD., TOPEKA, KS, Lic. #C4983

On December 10, 2004, the Board and Dr. Baker entered into an Agreed Order requiring Dr. Baker to surrender his Drug Enforcement Administration license. The action was based on an Order issued by the Kansas Board of Healing Arts, also requiring Dr. Baker to surrender his DEA license.

BARRETT, DAVID BENJAMIN, MD., ATHENS, TX, Lic. #G7987

A Temporary Restriction Order was entered on November 15, 2004, limiting Dr. Barrett's practice to an office practice and instructing Dr. Barrett not to apply for, accept, or maintain privileges at any hospital. The Temporary Restriction Order shall remain in force and effect until superseded by a new Order. The action was based on allegations that Dr. Barrett's treatment fell below the standard of care, including evidence that he failed to properly diagnose and treat multiple patients and displayed poor medical judgment.

BASS, JAMES RICHARD, MD., LAFAYETTE, LA, Lic. #J5257

On December 10, 2004, the Board and Dr. Bass entered into an Agreed Order suspending Dr. Bass' license. The action was based on allegations that Dr. Bass suffers from drug and alcohol addiction and relapsed, violating a probation order issued by the Louisiana State Board of Medical Examiners.

BATTLE, CLINTON CHARLES, MD., ARLINGTON, TX, Lic. #F1368

On December 10, 2004, the Board and Dr. Battle entered into an Agreed Order requiring Dr. Battle to attend a boundaries course, complete CME in medical recordkeeping, and pay a \$3,000 administrative penalty. The action was based on allegations that Dr. Battle signed a document, later offered in a court proceeding, stating that a patient was totally incapacitated without adequate medical records.

CAPLAN, STEVEN CHAIM, MD., HOUSTON, TX, Lic. #G8038

On December 10, 2004, the Board and Dr. Caplan entered into an Agreed Order accepting the voluntary surrender of Dr. Caplan's license. The action was based on Dr. Caplan's serious illness.

CARTWRIGHT, GREGORY BRYAN, MD., ARLINGTON, TX, Lic. #H7544

On December 10, 2004, the Board and Dr. Cartwright entered into an Agreed Order revoking Dr. Cartwright's license for 15 years, but probating the revocation for 15 years, requiring abstinence, drug testing, psychiatric evaluation and treatment, and inpatient evaluation for substance abuse.

CHHIKARA, SUBIR, MD., AUSTIN, TX, Lic. #J6378

On December 10, 2004, the Board and Dr. Chhikara entered into an Agreed Order assessing a \$1,500 administrative penalty. This action was based on allegations that Dr. Chhikara may have inappropriately accessed medical records of a family member.

DORMAN, JOHN WESLEY, MD., WICHITA FALLS, TX, Lic. #D5375

On December 10, 2004, the Board and Dr. Dorman entered into an Agreed Order issuing a public reprimand, requiring a boundaries course, additional CME in ethics and risk management, and assessing a \$2,500 administrative penalty. The action was based on allegations that Dr. Dorman displayed a lack of sensitivity to patient modesty by making inappropriate comments during three physical examinations.

ELDER, JAMES EVERETT JR., MD., DALLAS, TX, Lic. #K5289

On December 3, 2004, a Temporary Suspension Order was entered suspending Dr. Elder's license without notice due to evidence that the physician's continuation in the practice of medicine would constitute a continuing threat to public welfare. The allegations that led to the Temporary Suspension Order will be the subject of a Temporary Suspension Hearing with notice as soon as can be scheduled. The Temporary Suspension Order shall remain in full force and effect until such time as it is superseded by a subsequent Order of the Board. The action was based on allegations that Dr. Elder diverted an associate's triplicate prescription pad to prescribe medications for himself and family members, wrote false and fictitious prescriptions, and had hospital staff privileges summarily suspended.

ENI, IKEDINOBI UGOCHUKWU, MD., WOODLAND, TX, Lic. #K6843

On December 10, 2004, the Board and Dr. Eni entered into an Agreed Order requiring Dr. Eni to complete 15 hours of CME in emergency medicine and assessing a \$1,000 administrative penalty. The action was based on allegations that Dr. Eni did not meet the standard of care in treating an ER patient who presented with abdominal and testicular pain. As a result, the patient's left testicle had to be surgically removed.

FITZPATRICK, T. SEAN, MD., AUSTIN, TX, Lic. #L8056

On December 10, 2004, the Board and Dr. Fitzpatrick entered into an Agreed Order suspending Dr. Fitzpatrick's license. The action was based on allegations that Dr. Fitzpatrick relapsed while under a Rehabilitation Order.

GERSHON, JULIAN ROBERT JR., D.O., DENTON, TX, Lic. #G9462

On December 10, 2004, the Board and Dr. Gershon entered into an Agreed Order assessing a \$1,500 administrative penalty. The action was based on allegations that Dr. Gershon engaged in a boundary violation. During a fitness for duty examination, Dr. Gershon asked the patient to attend an out of town football game with him. Further, Dr. Gershon later called the patient and asked her out for a date.

GINZBURG, EUGENIA L, MD., HOUSTON, TX, Lic. #G8853

On December 10, 2004, the Board and Dr. Ginzburg entered into an Agreed Order assessing a \$500 administrative penalty. The action was based on Dr. Ginzburg's mistaken belief that she had obtained one hour of CME in ethics.

GROSS, ROBERT HADLEY, MD., WYNNEWOOD, PA, Lic. #G5125

On December 10, 2004, the Board and Dr. Gross entered into an Agreed Order revoking his license, staying the revocation and placing Dr. Gross on probation for 12 years, including restrictions that he not practice medicine until he proves to the Board that he is competent to do so; that he undergo psychiatric evaluation; that he attend the Colorado Institute for Physician Evaluation and complete any needed assessments; and that he successfully pass the Special Purpose Examination and the Medical Jurisprudence Examination. The action was based on a felony conviction.

GUILLET, GLEN GORDON, MD., BEAUMONT, TX, Lic. #D2445

On December 10, 2004, the Board and Dr. Guillet entered into an Agreed Order placing Dr. Guillet on probation for three years, requiring eight hours of ethics CME each year, issuing a public reprimand, and assessing a \$5,000 administrative penalty. The action was based on allegations that Dr. Guillet asked a patient to invest \$10,000, promising a return of \$30,000. No return of the invested money or the profits has been made to the patient. Such conduct violates Board rules concerning financial dealings with patients.

HALL-HERPIN, CALLIE O., MD., HOUSTON, TX, Lic. #K5306

On October 15, 2004, a Temporary Suspension Order was entered suspending Dr. Hall-Herpin's license without notice due to evidence and information that the physician's continuation in the practice of medicine would constitute a continuing threat to public welfare. The allegations that led to the Temporary Suspension Order will be the subject of a Temporary Suspension Hearing with notice in the future. The Temporary Suspension Order shall remain in force and effect until such time as it is superseded by a subsequent Order of the Board. The action was based on Dr. Hall-Herpin's indictment for providing narcotic medications to individuals for cash payments, writing prescriptions to individuals whose names Dr. Hall-Herpin had taken from the telephone book, and writing prescriptions for individuals with whom Dr. Hall-Herpin had never established a doctor-patient relationship.

HURLEY, DOUGLAS LEE, MD., TEMPLE, TX, Lic. #E4861

On December 10, 2004, the Board and Dr. Hurley entered into an Agreed Order placing Dr. Hurley on probation for five years, requiring a psychiatric evaluation, abstinence, and drug testing. The action was based on allegations that Dr. Hurley was convicted of driving while intoxicated and may have issues with depression.

JACKSON, CLEMIS LARAINÉ, MD., KATY, TX, Lic. #H5147

On December 10, 2004, the Board and Dr. Jackson entered into an Agreed Order revoking Dr. Jackson's license. The action was based on Dr. Jackson's felony convictions for conspiracy, health care fraud, and money laundering.

JOSEPH, PHILMORE JOSLEY, MD., HUMBLE, TX, Lic. #E1210

On December 10, 2004, the Board and Dr. Joseph entered into an Agreed Order assessing a \$500 administrative penalty. The action was based on allegations that Dr. Joseph failed to release medical records in a timely fashion.

KHAN, RABIA AWAN, MD., IRVING, TX, Lic. #K4103

On December 10, 2004, the Board and Dr. Khan entered into an Agreed Order requiring Dr. Khan to obtain an additional 10 hours of CME in medical recordkeeping for three years. The action was based on allegations that Dr. Khan added information to a patient's chart without properly identifying and dating the additional information.

KONDEJEWSKI, RICHARD JOSEPH, MD., LEAGUE CITY, TX, Lic. #F0548

On December 10, 2004, the Board and Dr. Kondejewski entered into an Agreed Order assessing a \$1,000 administrative penalty. The action was based on allegations that Dr. Kondejewski failed to release medical records in a timely fashion.

LEONARD, PHILIP JOSEPH, MD., AUSTIN, TX, Lic. #E8662

On December 10, 2004, the Board and Dr. Leonard entered into an Agreed Order restricting Dr. Leonard's license for 10 years, which include a prohibition from any contact with female patients. The action was based on allegations that Dr. Leonard made bodily contact of a sexual nature with multiple female patients.

MCCLELLAN, DAVID MARK, MD., CROSBY, TX, Lic. #G0476

On December 10, 2004, the Board and Dr. McClellan entered into an Agreed Order probating Dr. McClellan's license for 10 years, issuing a public reprimand, and requiring the presence of a chaperone during examinations of female patients. The action was based on allegations that Dr. McClellan engaged in boundary violations.

MIRZA, HUMAYUN, MD., HOUSTON, TX, Lic. #L6120

On December 10, 2004, the Board and Dr. Mirza entered into an Agreed Order requiring Dr. Mirza to attend a boundaries course, to maintain adequate medical records, and to pay a \$1,000 administrative penalty. The action was based on an order issued by the New York State Board of Professional Conduct, which placed Dr. Mirza on probation for three years due to inappropriate conduct with a patient.

MITCHELL, ROBY DEAN, MD., AMARILLO, TX, Lic. #H4560

On October 27, 2003, a Temporary Suspension Order was entered suspending Dr. Mitchell's license due to evidence that the physician's continuation in the practice of medicine would constitute a continuing threat to public welfare. The Temporary Suspension Order shall remain in full force and effect until such time as it is superseded by a subsequent Order of the Board. The action was based on Dr. Mitchell's failure to comply with his Agreed Order dated April 14, 2003, which required that Dr. Mitchell have his patient records monitored by another physician.

MORRIS, DARELD RAY, D.O., AMARILLO, TX, Lic. #C8589

On December 10, 2004, the Board and Dr. Morris entered into an Agreed Order wherein Dr. Morris surrendered his license. The action was based on Dr. Morris' physical condition.

OLIVARES, JAIRO RAFAEL, MD., GARLAND, TX, Lic. #J9250

On December 10, 2004, the Board and Dr. Olivares entered into an Agreed Order requiring attendance at courses in addictionology and recordkeeping, monitoring by a Board-approved physician, and paying a \$3,000 administrative penalty. The action was based on allegations that Dr. Olivares engaged in nontherapeutic prescribing of narcotic medications and erred in a diagnosis. Dr. Olivares referred a patient to hospice on the assumption the patient suffered from pancreatic cancer, when the patient actually suffered from chronic pancreatitis.

ORONOS, JOAQUIN FRANCISCO, JR., MD., LAREDO, TX, Lic. #K9860

On December 10, 2004, the Board and Dr. Oronoz entered into an Agreed Order publicly reprimanding Dr. Oronoz, requiring additional CME hours in ethics and requiring a year of anger management counseling. The action was based on allegations that Dr. Oronoz engaged in unprofessional conduct by pushing or striking a surgical technician.

PARKER, THOMAS STERLING, MD., GEORGETOWN, TX, Lic. #F1884

On December 10, 2004, the Board and Dr. Parker entered into an Agreed Order assessing a \$1,000 administrative penalty. The action was based on failure to submit CME documentation, failure to comply with reporting requirements of a prior board order, and erroneously advertising that he was board certified in vascular medicine. While Dr. Parker is board certified in Internal Medicine, the American Board of Medical Specialties does not offer a certification in vascular medicine.

PAYNE, DONALD EARL, MD., TYLER, TX, Lic. #C5348

On December 10, 2004, the Board and Dr. Payne entered into an Agreed Order assessing a \$500 administrative penalty. The actions were based on allegations that Dr. Payne incorrectly documented a physical examination by stating that the patient's genitalia were normal, when in fact Dr. Payne did not examine the genitalia.

PENA, FRANCISCO I., MD., LAREDO, TX, Lic. #F9107

On December 10, 2004, the Board and Dr. Pena entered into a 10-year Agreed Order publicly reprimanding Dr. Pena, ordering the doctor not to practice obstetrics, not to advertise that he is board certified in family practice, requiring an additional 20 hours of CME each year he is under order, and requiring the Texas jurisprudence exam.

PENDLETON, MICHAEL JEROME, MD., CORPUS CHRISTI, TX, Lic. #L4091

On December 5, 2004, the Board and Dr. Pendleton entered into an Agreed Order suspending Dr. Pendleton's license, probating the suspension and placing Dr. Pendleton under terms and conditions for five years including abstaining from alcohol and drugs, submitting to random drug testing, and psychiatric treatment. The action was based on allegations of intemperate use of alcohol and drugs.

PEREZCASSAR, JOSE ENRIQUE, MD., ORLANDO, FL, Lic. #H7205

On December 10, 2004, the Board revoked Dr. Perezcassar's license. The action was based on allegations that Dr. Perezcassar intubated a patient when not medically indicated, failed to do an appropriate medical procedure within the standard of care on a second patient resulting in hospitalization, and failed to diagnose a fracture in a third patient resulting in subsequent surgery. Dr. Perezcassar may file a Motion for Rehearing within 20 days of the Order. If a Motion for Rehearing is filed and the Board denies the motion, the Order is final. If a Motion for Rehearing is filed and the Board grants the motion, the Order is not final and a hearing will be scheduled.

POWELL, BURRELL EDWIN, MD., CONROE, TX, Lic. #C3175

On November 15, 2004, the Board and Dr. Powell entered into an Agreed Order requiring Dr. Powell to maintain adequate medical records, maintain a log book of all prescriptions, disallowing telephone prescriptions, requiring passage of the SPEX exam, and requiring the doctor to seek Board approval if he changes his practice site. The action was based on allegations that Dr. Powell failed to keep adequate medical records and engaged in nontherapeutic prescribing.

ROBY, RUSSELL R., MD., AUSTIN, TX, Lic. #E1255

On December 10, 2004, the Board and Dr. Roby entered into an Agreed Order publicly reprimanding Dr. Roby, requiring a practice monitor, and requiring Dr. Roby to present an informed consent for Board approval. The action was based on allegations that Dr. Roby treated a patient's bacterial infection with dilute tetanus toxoid injections without informed consent.

SNOW, TASCA DARLENE, MD., AUSTIN, TX, Lic. #L3836

On December 10, 2004, the Board publicly reprimanded Dr. Snow and placed certain terms and conditions on her license, specifically requiring that she take and pass the Medical Jurisprudence Examination within one year, and assessing an administrative penalty in the amount of \$5,000. The action was based on unprofessional conduct in that Dr. Snow closed and moved her practice without providing required notice to the Board, terminated patient care without providing reasonable notice to her patients, and failed to provide a means for patients to obtain their medical records upon closure of her practice. Dr. Snow may file a Motion for Rehearing within 20 days of the Order. If a Motion for Rehearing is filed and the Board denies the motion, the Order is final. If a Motion for Rehearing is filed and the Board grants the motion, the Order is not final and a hearing will be scheduled.

THIRSTRUP, LARRY GOFFREY, MD., DALLAS, TX, Lic. #K4267

On November 18, 2004, a Temporary Suspension Order was entered suspending Dr. Thirstrup's license without notice due to evidence that the physician's continuation in the practice of medicine would constitute a continuing threat to public welfare. The allegations that led to the Temporary Suspension Order will be the subject of a Temporary Suspension Hearing with notice in the near future. The Temporary Suspension Order shall remain in full force and effect until such time as it is superseded by a subsequent Order of the board. The action was based on allegations of continued abuse of alcohol and drugs.

THOMAS, FRED C., MD., DALLAS, TX, Lic. #G1785

On December 10, 2004, the Board and Dr. Thomas entered into an Agreed Order assessing a \$1,000 administrative penalty. The action was based on allegations that Dr. Thomas failed to provide medical records in a timely fashion.

VAGSHENIAN, GREGORY SIMON, MD., AUSTIN, TX, Lic. #J8155

On October 19, 2004, the Board and Dr. Vagshenian entered into an Agreed Order restricting Dr. Vagshenian's license in that he shall not engage in the practice of medicine that involves direct patient contact or the prescription of any drugs or medication for any person. Dr. Vagshenian shall limit his medical practice to administrative non-clinical medicine only. The action was based upon conviction of the offense of assault on patients in the course of his practice.

WHITE, ROBERT FRANK, MD., MOUNT VERNON, TX, Lic. #C7159

On December 10, 2004, the Board and Dr. White entered into an Agreed Order assessing a \$1,000 administrative penalty. The action was based on allegations that Dr. White did not timely complete his required CME hours.

PHYSICIAN ASSISTANTS

FERRILL, ANDREW MARTIN, P.A., AUSTIN, TX, Lic. #PA02571

On November 5, 2004, the Board and Mr. Ferrill entered into an Agreed Order in which Mr. Ferrill voluntarily and permanently surrendered his Texas Physician Assistant license. The action was based on allegations of Mr. Ferrill's intemperate use of drugs.

WEILAND, BONNIE EILEEN, P.A., AMARILLO, TX, Lic. #PA03649

On November 5, 2004, the Board and Ms. Weiland entered into an Agreed Order requiring 10 hours of medical ethics and assessing a \$500 administrative penalty. The action was based upon allegations that Ms. Weiland failed to perform a history and physical on three occasions while employed at Amarillo Veterans Administration.

ACUPUNCTURISTS

KAREEM, ASYA, NORTH RICHLAND HILLS, TX, Lic. #AC00364

On December 10, 2004, the Board and Ms. Kareem entered into an Agreed Order assessing a \$700 administrative penalty. The action was based on violation of a previous Order of the Board in which Ms. Kareem failed to pass the TSE with a score of 45 by April 1, 2003.

WILSON, JANIS PIERCE, LUBBOCK, TX, Lic. #AC00233

On December 10, 2004, the Board and Ms. Wilson entered into an Agreed Order suspending Ms. Wilson's license. The action was based on allegations of depression and alcohol dependence.

The Texas State Board of Medical Examiners, the state agency that regulates physicians, physician assistants, surgical assistants and acupuncturists,

provides consumer protection through licensure, investigation and disciplinary action. The Board, under President Lee S. Anderson, M.D., and Executive Director Donald W. Patrick, M.D., J.D., and mandated by Senate Bill 104 of the 78th Legislature, is strengthening and accelerating the disciplinary process for licensees who fail to meet the required standards of professional proficiency and behavior.

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

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

Open records requests for orders may be made to

or write to:

Texas State Board of Medical Examiners
MC 251
P.O. Box 2018
Austin, TX 78768-2018

To receive press releases by e-mail: jill.wiggins@tmb.state.tx.us