

Texas Medical Board Press Release

FOR IMMEDIATE RELEASE

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TMB disciplines 34 physicians at October meeting, adopts rules changes

At its October 19, 2018 meeting, the Texas Medical Board disciplined 34 licensed physicians.

The disciplinary actions included: seven orders related to quality of care violations, four orders related to unprofessional conduct, two revocations, three voluntary surrenders/revocations, two suspensions, one restriction, two orders related to nontherapeutic prescribing, one order related to improper supervision or delegation, one order related to improper prescribing, four orders related to violation of prior Board order, two orders related to other states' actions, two orders related to inadequate medical records, one order related to impairment, and two orders related to Texas Physician Health Program violation. The Board also took action against a Surgical Assistant.

The Board issued 145 physician licenses at the October meeting, bringing the total number of physician licenses issued in FY19 to 641.

RULE CHANGES ADOPTED

CHAPTER 175. FEES AND PENALTIES

The amendments to **§175.5**, concerning Payment of Fees or Penalties, adds language in subsection (c)(6) that requires a request for refund from the spouse or personal representative of a licensee or applicant who dies within 90 days of having paid a licensure fee. The amendment makes clear that a refund is not automatically processed by the Board upon a licensee or applicant's death. The amendment also adds language to subsection (c)(7) giving some discretion to the Executive Director as to whether a licensure fee should be fully refunded if it was paid more than 90 days before the licensee's or applicant's death. The amendment makes it possible for the Board to issue a full refund in a unique situation, such as when a licensee or applicant has paid a fee more than 90 days before his or her death, but has not yet received the license or registration.

CHAPTER 188. PERFUSIONISTS

The amendment to **§188.4**, concerning Qualifications for Licensure, removes the jurisprudence exam attempt limit for applicants.

The amendment to **§188.26**, concerning Exemption from Registration Fee for Retired Perfusionists Providing Voluntary Charity Care, removes the language in subsection (g) that requires a licensee to submit evaluations from previous employers upon application to return to active status after being inactive and only providing charity care.

The amendment to **§188.28**, concerning Exemption from Registration Fee for Retired Perfusionists, removes the language in subsection (c) that requires a licensee to submit evaluations from previous employers upon application to return to active status after being retired.

CHAPTER 190. DISCIPLINARY SANCTION GUIDELINES

The amendments to **§190.14**, concerning Disciplinary Sanction Guidelines, corrects the sanction guidelines chart that was inadvertently deleted from the Texas Administrative Code due to a filing error in June 2018, when three categories of sanctions were amended. The adopted graphic reflects the sanction guidelines as previously in place, as amended in June 2018, and inadvertently deleted from the Texas Administrative Code.

DISCIPLINARY ACTIONS

QUALITY OF CARE

Garza-Keever, Simon T., D.O., Lic. No. J9042, San Antonio

On October 19, 2018, the Board and Simon T. Garza-Keever, D.O., entered into an Agreed Order requiring him to have his practice monitored by another physician for 12 consecutive monitoring cycles; within one year complete at least 16 hours of in-person CME, divided as follows: eight hours in medical recordkeeping and eight hours in prescribing controlled substances for weight loss; and within 60 days pay an administrative penalty of \$3,000. The Board found Dr. Garza-Keever violated the standard of care for 20 patients for whom he treated for obesity and associated medical problems, failed to obtain complete patient histories and/or perform complete physical examinations, and failed to maintain adequate medical records.

Krapin, Lloyd Jeffrey, M.D., Lic. No. F4913, El Paso

On October 19, 2018, the Board and Lloyd Jeffrey Krapin, M.D., entered into an Agreed Order under the following terms: may only prescribe, administer, and/or order Schedule II controlled substances for the purpose of treating acute pain on a one-time basis, for no more than 72 hours with no refills for any patient. The Board found Dr. Krapin retired during a pending investigation by the VA and continued to prescribe controlled substances to a patient even after becoming aware of the patient's issue with suicide and drug abuse.

Smith, Lance S., M.D., Lic. No. J5646, Arlington

On October 19, 2018, the Board and Lance S. Smith, M.D., entered into an Agreed Order on Formal Filing requiring him to within one year complete at least eight hours of CME, divided as follows: four hours in management of complex patients and four hours in risk management. The Board found Dr. Smith failed to properly heed and evaluate a patient's complaints of pain following the surgical insertion of an intrathecal morphine pump by a different physician. This order resolves a formal complaint filed at the State Office of Administrative Hearings

Smith, Raleigh Arnold, III, M.D., Lic. No. F4547, Aransas Pass

On October 19, 2018, the Board and Raleigh Arnold Smith, III, M.D., entered into an Agreed Order prohibiting him from performing bowel procedures except for the purposes of satisfying the proctor requirement. The restriction shall remain in effect until he requests permission in writing to resume such practice, personally appears before the Board and provides clear evidence that he is competent to independently perform bowel procedures. Such evidence shall include at minimum, evidence that he has complete five bowel procedures under the observation of a Board-approved proctor and has followed any and all recommendations made by the proctor; and within one year complete at least 24 hours of CME, divided as follows: eight hours in post-operative complications, eight hours in medical recordkeeping and eight hours in chart monitoring. The Board found Dr. Smith failed to meet the standard of care in his care and treatment of a patient resulting in post-operative complications after performing laparoscopic exam, left oophorectomy and adhesiolysis on a patient. Dr. Smith's surgical privileges were suspended as a result of the standard of care violation.

Torres, Norman Jose, M.D., Lic. No. K8532, The Woodlands

On October 19, 2018, the Board and Norman Jose Torres, M.D., entered into an Agreed Order requiring him to within 30 days obtain a Board-approved, board certified neurological surgeon to serve as his proctor for his next 15 neurological surgical procedures; and within 60 days pay an administrative penalty of \$6,000. The Board found Dr. Torres failed to meet the standard of care for one patient by failing to properly position screws correctly in two successive spinal surgeries and failed to recognize complications following the surgeries.

Wallace, David Michael, D.O., Lic. No. N0539, Richmond

On October 19, 2018, the Board and David Michael Wallace, D.O., entered into an Agreed Order requiring him to within one year complete at least 12 hours of CME, divided as follows: eight hours in diagnosis and treatment of deep vein thrombosis and four hours in diagnosis and treatment of lower extremity injuries. The Board found Dr. Wallace did not

document the possibility of a deep vein thrombosis in his differential diagnosis though he indicated he discussed the possibility of one with the patient. Such discussion was not adequately documented in Dr. Wallace's medical records.

Williams, James Edward, M.D., Lic. No. N1221, San Antonio

On October 19, 2018, the Board and James Edward Williams, M.D., entered into an Agreed Order on Formal Filing requiring him to within one year and three attempts pass the Medical Jurisprudence Exam; and within one year complete at least 20 hours of CME, divided as follows: eight hours in risk management, eight hours in diagnosis and treatment of urinary tract cancer and four hours in treatment of hematuria. The Board found Dr. Williams failed to properly diagnose and treat a patient's ongoing hematuria. This order resolves a formal complaint filed at the State Office of Administrative Hearings.

UNPROFESSIONAL CONDUCT

Aggarwala, Gaurav, M.D., Lic. No. L7636, Huntsville

On October 19, 2018, the Board and Gaurav Aggarwala, M.D., entered into an Agreed Order Upon Formal Filing requiring him to within one year and three attempts pass the Medical Jurisprudence Exam; and within one year complete at least 16 hours of in-person CME, divided as follows: eight hours in anger management and eight hours in communications. The Board found Dr. Aggarwala engaged in a pattern of inappropriate behavior towards staff members. This order resolves a formal complaint filed at the State Office of Administrative Hearings.

Ethridge, Jeff Dwayne, M.D., Lic. No. L6877, Boerne

On October 19, 2018, the Board and Jeff Dwayne Ethridge, M.D., entered into an Agreed Order requiring him to within one year complete at least four hours of CME in risk management; and within 60 days pay an administrative penalty of \$500. The Board found Dr. Ethridge failed to timely complete the death certificate for a patient.

Ortiz, Raynaldo Rivera, Jr., M.D., Lic. No. H9000, Garland

On October 19, 2018, the Board and Raynaldo Rivera Ortiz, Jr., M.D., entered into an Agreed Order on Formal Filing publicly reprimanding Dr. Ortiz and requiring him to within 60 days pay an administrative penalty of \$2,000. The Board found Dr. Ortiz had his clinical privileges suspended for 14 days for failing to notify all hospitals of his misdemeanor criminal charges. On June 15, 2016, a Collin County, Texas, jury found Dr. Ortiz guilty of Cruelty to Non-Livestock Animals. This order resolves a formal complaint filed at the State Office of Administrative Hearings.

Zertuche, Benjamin, M.D., Lic. No. L2066

On October 19, 2018, the Board and Benjamin Zertuche, M.D., entered into an Agreed Order requiring him to within six months complete the professional boundaries course offered by the University of California San Diego Physician Assessment and Clinical Education (PACE) program; within one year and three attempts pass the Medical Jurisprudence Exam; and within 60 days pay an administrative penalty of \$1,000. The Board found Dr. Zertuche prescribed medications to a person with whom he had a pre-existing, close personal relationship and admitted to treating a number of patients after the end of prior close personal relationships.

REVOCATION

Durand, Darnel Michael, M.D., Lic. No. M2609, The Woodlands

On October 19, 2018, the Board entered a Final Order against Darnel Michael Durand, M.D., revoking his Texas medical license. The Board found Dr. Durand operated two unregistered pain management clinics, nontherapeutically prescribed controlled substances, failed to meet the standard of care in his treatment of multiple chronic pain patients, failed to properly supervise his midlevels and failed to keep adequate medical records. The action was based the findings made by an administrative law judge at the State Office of Administrative Hearings (SOAH). The order resolves a formal complaint filed at SOAH. Dr. Durand has 25 days from the service of the order to file a motion for rehearing.

Levison, Lionel, M.D., Lic. No. F7512, Odessa

On October 19, 2018, the Board entered a Default Order regarding Lionel Levison, M.D., which revoked his Texas medical license. On August 30, 2017, the Board filed a Complaint with the State Office of Administrative Hearings

(SOAH), alleging violations related to the standard of care. Dr. Levison failed to appear at the SOAH hearing and no responsive pleading was ever filed by Dr. Levison. The Board granted a Determination of Default and Dr. Levison's license was revoked by Default Order. This order resolves a formal complaint filed at SOAH. Dr. Levison has 25 days from the service of the order to file a motion for rehearing.

VOLUNTARY SURRENDER/REVOICATION

Pryor, Bryant Allan, M.D., Lic. No. P9110, Humble

On October 19, 2018, the Board and Bryant Allan Pryor, M.D., entered into an Agreed Order of Voluntary Surrender in which Dr. Pryor agreed to voluntarily surrender his Texas medical license in lieu of further disciplinary proceedings. The Board found Dr. Pryor pleaded guilty to one felony count of conspiracy to distribute and dispense controlled substances.

Kim, David Daesung, M.D., Lic. No. L6982, Colleyville

On October 19, 2018, the Board and David Daesung Kim, M.D., entered into an Agreed Order of Voluntary Revocation in which Dr. Kim voluntarily agreed to surrender his Texas medical license in lieu of further disciplinary proceedings. The Board found Dr. Kim agreed to plead guilty to certain felony offenses in two cases, both filed in the Northern District of Texas – Dallas Division.

Travis, Zane Roland, M.D., Lic. No. C7146, Abilene

On October 19, 2018, the Board and Zane Roland Travis, M.D., entered into an Agreed Order of Voluntary and Permanent Surrender in which Dr. Travis agreed to voluntarily surrender his Texas medical license in lieu of further disciplinary proceedings. Dr. Travis was under investigation for prescribing violations and impairment.

SUSPENSION

Evans, Jason, M.D., Lic. No. M9268, Harlingen

On October 19, 2018, the Board and Jason Evans, M.D., entered into an Agreed Order suspending Dr. Evans' Texas medical license for one year. After one year, Dr. Evans may petition the Board to lift the suspension, personally appear before the Board and provide clear evidence that he is physically, mentally, and otherwise competent to safely practice medicine. The Board found that Dr. Evans began to suffer from severe depression that has continued until the present time following surgery for a hypertensive cerebellar bleed. This order supersedes all prior orders of the Board.

Rodriguez, Jesus Guillermo, Lic. No. J4999, Houston

On October 19, 2018, the Board and Jesus Guillermo Rodriguez, M.D., entered into an Agreed Suspension Order suspending Dr. Rodriguez's Texas medical license until such a time as his criminal proceeding in the U.S. District Court, and any other criminal proceedings filed during the pendency of this Order, are resolved. The Board found Dr. Rodriguez is currently under indictment for charges related to operation of an unregistered pain management clinic.

RESTRICTION

Zayas, Roberto, Jr., M.D., Lic. No. K2832, Spring

On October 19, 2018, the Board and Roberto Zayas, Jr., M.D., entered into an Agreed Order on Formal Filing restricting Dr. Zayas to the practice of administrative medicine as defined in the Order and shall not engage in the clinical practice of medicine in any capacity that involves direct or indirect patient contact; shall not engage in any employment, practice or work in any professional capacity with a pain management clinic; within seven days surrender his DEA controlled substances registration certificate and not reregister without prior Board approval; and shall not supervise or delegate prescriptive authority to physician assistants and advanced practice nurses or supervise surgical assistants. The Board found on April 2017, the DEA ordered his DEA certificate of registration revoked based on findings that Dr. Zayas issued prescriptions to obtain controlled substances for office use in violation of several federal laws. Dr. Zayas has expressed his desire to cease clinical practice due to health issues. This order resolves a formal complaint filed at the State Office of Administrative Hearings.

NONTHERAPEUTIC PRESCRIBING

Brown, Larry Donniel, M.D., Lic. No. G3189, Jasper

On October 19, 2018, the Board and Larry Donniel Brown, M.D., entered into an Agreed Order Upon Formal Filing publicly reprimanding Dr. Brown and requiring him to within 10 days surrender his DEA controlled substances registration certificate and shall not reregister without prior Board approval; within one year and three attempts pass the Medical Jurisprudence Exam; within one year complete the medical recordkeeping course offered by the University of California San Diego Physician Assessment and Clinical Education (PACE) program; within one year complete at least 16 hours of CME, divided as follows: eight hours in risk management and eight hours in prescribing controlled substances; and shall not be permitted to delegate prescriptive authority to a physician assistant or advanced practice nurse. The Board found Dr. Brown nontherapeutically prescribed to 15 patients by failing to adequately document and address aberrant or irregular urine drug screen tests and prescribing in excess of recommended dosages, and failed to adequately supervise his midlevel providers who similarly failed to document and address the aberrant tests. This order resolves a formal complaint filed at the State Office of Administrative Hearings.

Ruggiero, Michael F., D.O., Lic. No. H9144, Bryan

On October 19, 2018, the Board and Michael F. Ruggiero, D.O., entered into an Agreed Order publicly reprimanding Dr. Ruggiero and requiring him to within 10 days surrender his DEA controlled substances registration certificate and shall not reregister without prior Board approval; within 60 days pay an administrative penalty of \$5,000; and shall not be permitted to supervise or delegate prescriptive authority to a physician assistant or advanced practice nurse or supervise a surgical assistant. The Board found Dr. Ruggiero failed to meet the standard of care, nontherapeutically prescribed, and failed to maintain adequate medical records for 15 patients.

IMPROPER SUPERVISION OR DELEGATION

Conder, Thomas Charles, D.O., Lic. No. M5671, Bowie

On October 19, 2018, the Board and Thomas Charles Conder, D.O., entered into an Agreed Order requiring him to within one year and three attempts pass the Medical Jurisprudence Exam; within one year complete at least 32 hours of CME, divided as follows: eight hours in appropriate prescribing of controlled substances, eight hours in ethics, eight hours in supervision or delegation and eight hours in risk management; and within 60 days pay an administrative penalty of \$3,000. The Board found Dr. Conder failed to propagate delegation orders and standing orders for delegation of duties at the practice, allowed staff to access prescription medications with little or no supervision in an unsecured area, allowed a registered nurse to dispense medications without orders or supervision, and admitted that he did not personally evaluate patients before the patients were treated; however, he did review the labs and treatment course with his nurse.

IMPROPER PRESCRIBING

Rothrock, Robin Elizabeth, M.D., Lic. No. N1869, Tiki Island

On October 19, 2019, the Board and Robin Elizabeth Rothrock, M.D., entered into an Agreed Order requiring her to within one year and three attempts pass the Medical Jurisprudence Exam; within one year complete the prescribing course offered by the University of California San Diego Physician Assessment and Clinical Education (PACE) program; and within one year complete at least 16 hours of CME, divided as follows: eight hours in medical recordkeeping and eight hours in risk management. The Board found Dr. Rothrock self-prescribed medications, none of which were controlled substances, and that she failed to maintain proper medical records with respect to such self-prescribing.

VIOLATION OF PRIOR BOARD ORDER

Bryant, Paula, M.D., Lic. No. G3810, Houston

On October 19, 2018, the Board and Paula Bryant, M.D., entered into a Modification Order, modifying the 2017 Order. The modification requires Dr. Bryant to within one year complete at least four hours of CME in risk management, within one year and three attempts pass the Medical Jurisprudence Exam and complete the remaining terms of her 2017 Order

by December 31, 2018. All other terms of the 2017 Order remain in full force and effect until superseded by subsequent order of the Board.

Powell, Douglas, D.O., Lic. No. R4890, Dakota Dunes, SD

On October 19, 2018, the Board and Douglas Powell, D.O., entered into an Agreed Order publicly referring him to the Texas Physician Health Program (TXPHP). The Board found Dr. Powell violated his 2017 Order which required him to submit to an evaluation by TXPHP within 30 days. Dr. Powell did attempt to resolve with TXPHP, but failed to update his address of record and did not timely respond to TXPHP as a result.

Seabold, Chad, M.D., Lic. No. N1442, Houston

On October 19, 2018, the Board and Chad Seabold, M.D., entered into an Agreed Order publicly reprimanding Dr. Seabold and requiring him to within one year complete at least eight hours of CME in ethics; and within 60 days pay an administrative penalty of \$10,000. The Board found Dr. Seabold violated his 2017 Order by failing to comply with the Texas Physician Health Program because he failed to meet for an initial interview.

Qasim, Shabnam, M.D., Lic. No. K9397, Fort Worth

On October 19, 2019, the Board and Shabnam Kanwal Qasim, M.D., entered into an Agreed Order requiring her to within one year and three attempts pass the Medical Jurisprudence Exam; and within 60 days pay an administrative penalty of \$500. The Board found Dr. Qasim violated terms of the March 3, 2017 Mediated Order by failing to timely pay chart monitoring fees and by failing to take and pass the Medical Jurisprudence Exam.

OTHER STATES' ACTIONS

Rose, Kenneth Emery, M.D., Lic. No. K8461, Muscle Shoals, AL

On October 19, 2018, the Board and Kenneth Emery Rose, M.D., entered into an Agreed Order requiring him to complete and comply with all terms of the Consent Order entered by the Alabama State Board of Medical Examiners (ASBME) on April 30, 2018. The Board found Dr. Rose was disciplined by the ASBME for being deficient in continuing medical education credits necessary for renewal in 2018 in Alabama.

Sirois, Cindy Nguyen, Lic. No. TM00110, Sea Ranch Lakes, FL

On October 19, 2018, the Board and Cindy Nguyen Sirois, M.D., entered into an Agreed Order publicly reprimanding Dr. Sirois. The Board found Dr. Sirois received a public letter of concern from the North Carolina Medical Board related to her interpretation of a patient's MRI and the standard of care involved.

INADEQUATE MEDICAL RECORDS

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

On October 19, 2018, the Board and Jose Armando Fuentes, M.D., entered into an Agreed Order requiring him to within one year and three attempts pass the Medical Jurisprudence Exam; and within one year complete at least 8 hours of CME, divided as follows: four hours in ethics and four hours in risk management. The Board found Dr. Fuentes was disciplined by the Texas Department of Insurance for inappropriate completion of return-to-work forms for 10 patients.

Joo, Sang Bai, M.D., Lic. No. E9252, Houston

On October 19, 2018, the Board and Sang Bai Joo, M.D., entered into an Agreed Order requiring him to have his practice monitored by another physician for eight consecutive monitoring cycles. The Board found Dr. Joo failed to keep adequate medical record documentation as part of his practice as shown by his PACE assessment results.

IMPAIRMENT

Dutta, Suresh-Venkayya, M.D., Lic. No. L1024, San Antonio

On October 19, 2018, the Board and Suresh-Venkayya Dutta, M.D., entered into an Agreed Order on Formal Filing publicly referring Dr. Dutta to the Texas Physician Health Program and requiring him to abstain from the consumption of

prohibited substances as defined in the Order; and participate in the Board's drug testing program. The Board found Dr. Dutta may be using alcohol in an intemperate manner and may suffer from an impairment that could affect his practice of medicine. This order resolves a formal complaint filed at the State Office of Administrative Hearings.

TXPHP VIOLATION

Boehme, Christopher Lee, M.D., Lic. No. M0666, Orange

On October 19, 2018, the Board and Christopher Lee Boehme, M.D., entered into an Agreed Order on Formal Filing publicly referring Dr. Boehme to the Texas Physician Health Program (TXPHP) and requiring him to within 30 days obtain an independent medical evaluation by a Board-approved psychiatrist and follow all recommendations for care and treatment. The Board found Dr. Boehme was, for a time, unable to practice medicine with reasonable skill and safety due to illness and abuse of alcohol and did not cooperate with TXPHP following a referral from the Board. This order resolves a formal complaint filed at the State Office of Administrative Hearings.

Stager, David Richard, M.D., Lic. No. J1572, Plano

On October 19, 2018, the Board and David Richard Stager, M.D., entered into an Agreed Order publicly reprimanding Dr. Stager and requiring him to abstain from the consumption of prohibited substances as defined in the Order; participate in the Board's drug testing program; within 30 days obtain an independent medical evaluation by a Board-approved forensic psychiatrist and follow all recommendations for care and treatment; within 30 days obtain a Board-approved physician to serve as a work-site monitor to monitor his practice for one year or four quarters; participate in the activities of Alcoholics Anonymous no less than 10 times per month; and participate in the activities of Caduceus no less than one time per week. The Board found Dr. Stager violated his Texas Physician Health Program agreement by relapsing in his abuse of alcohol and was involved in a domestic dispute and was observed to be impaired by police officers responding to the report.

SURGICAL ASSISTANT

Graffagnino, Jordan Brett, S.A., Lic. No. SA00483, Houston

On October 19, 2018, the Board and Jordan Brett Graffagnino, S.A., entered into an Agreed Order on Formal Filing publicly referring Mr. Graffagnino to the Texas Physician Health Program (TXPHP). The Board found Mr. Graffagnino failed to comply with the terms of his original TXPHP agreement as a result of failing to timely check in for drug screening on five occasions, and was terminated from TXPHP resulting in a referral back to the Board. This order resolves a formal complaint filed at the State Office of Administrative Hearings.

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To view disciplinary orders, visit the TMB website, click on "Look Up A License," accept the usage terms, then type in a licensee's name. Click on the name shown in the search results to view the licensee's full profile. Within that profile is a button that says "View Board Actions."

All releases and bulletins are also available on the TMB website under the "Newsroom" heading.