

Medical Board Report

Newsletter of the Texas State Board of Medical Examiners

Fall 1997

Volume 19, Number 1

Downloadable versions:

[Medical Board Report Fall 97](#) (fall97.doc, MS Word 97, 151KB)

CONTENTS:

[Board Offers Condolences](#)

[Clearinghouse Program](#)

[CME Reminder for Physicians](#)

[Correction](#)

[Executive Director's Column](#)

[Governor Appoints Board Members](#)

[Legal and Ethical Issues of HIV in Medical Practice](#)

[Medical Board Rule Changes](#)

[Notice to Physicians Who Supervise Non-Certified Radiologic Technicians](#)

[Position Statement on Bariatric Medicine](#)

[Acupuncture Rules Update](#)

[CME Reminder for PA's](#)

[Notice to Physician Assistants](#)

[Notice to Physician Assistants Who Perform Radiologic Procedures](#)

[The Texas State Board of Physician Assistant Examiners Disciplinary Actions](#)

Board Offers Condolences

The Board offers condolences to the families of Ann Forehand, who passed away July 3, Richard Eppright, M.D., who died June 12, and Jerome L. Armbruster, D.O., who passed away May 23.

Mrs. Forehand, a public member of the Board, was appointed by Governor George W. Bush in November, 1995. She was active in her community of Texarkana, serving as president and treasurer of the Junior League, as well as serving on the Texarkana Regional Arts and Humanities Council. Mrs. Forehand received three awards from the Texarkana Museum System Board while serving as a board member.

Dr. Eppright, a prominent orthopedic surgeon at Methodist Hospital and Baylor Medical College in Houston, served on the District One Review Committee of the Board of Medical Examiners from March, 1988, through August, 1994. He and his wife, Margaret, were killed in an auto accident.

Dr. Armbruster, who had a long-standing family osteopathic practice in Pearland, served on the Board's District One Review Committee from April, 1988, until the time of his death.

The Board appreciates the dedicated service of these three individuals. They will be greatly missed.

Clearinghouse Program

The Clearinghouse for Health Professionals was established by the 74th Legislature to provide a means of collaboration among primary care physicians, physician assistants and nurse practitioners. The Texas Department of Health has prepared an Official Clearinghouse Application Form (CH-1296) for applicants to register for the Clearinghouse. Physicians may seek PA's or NP's to join their practices, and PA's and NP's may seek physicians to collaborate with.

The program will disseminate information on primary care providers seeking opportunities in rural health clinics, federally qualified community health center and other practices. There is no fee for the service.

For more information or to obtain a form CH-1296, call Dr. Bruce Gunn at (512) 458-7711.

CME Reminder for Physicians

You must have at least 24 hours of continuing medical education each year to renew your license. At least 12 hours must include formal education.

Correction

The disciplinary actions in the Spring 1997 issue of the *Medical Board Report* listed **Raul Garza, M.D.**, in San Benito, CA. Dr. Garza is in San Benito, TX.

Executive Director's Column

By Bruce A. Levy, M.D., J.D.

The 75th Legislature passed a number of bills that affect physicians, physician assistants, acupuncturists, and their respective boards.

Bills affecting physicians:

- HB120 adds a new definition of chronic pain that allows physicians to administer controlled substances to persons who are current drug users, who have a history of drug abuse, or live in an environment that poses a risk. The bill includes specific documentation requirements.
- HB196 requires a doctor to provide a contact lens prescription to a patient who requests it unless to do so would cause harm to the patient's ocular health, the patient has not paid for the service, or it is past the first anniversary of the last examination.

- HB1070 replaces triplicate prescriptions with official prescription stickers issued by the Department of Public Safety; provides for electronic transfer of prescription information from pharmacies to the DPS; expands the types of information that can be released from the Official Prescription Program by the DPS, and effects other related Controlled Substance Act changes.
- HB1149 allows a professional association to be formed among M.D.s, D.O.s and podiatrists. The association must be jointly owned by those practitioners to perform services that fall within the scope of their respective practices.
- HB1511 establishes procedures for allocation of Medicaid funds for graduate medical education. The Texas State Board of Medical Examiners, through the Executive Director, will be part of an advisory committee to determine allocation of funding for graduate medical training, including primary care.
- HB2192 allows for a \$15,000 annual stipend for a physician recruitment program for medically underserved areas.
- SB1607 requires the Board to establish by rule the length of time patient records must be maintained.
- Three bills relate to telemedicine: HB2017 requires the state Medicaid program to reimburse telemedicine service; HB2033 provides that benefit plans may not exclude a service solely because it is provided through telemedicine; HB2386 provides for Medicaid reimbursement for a telemedical consultation of a Texas licensed physician who practices in a rural health facility, an accredited medical school or a teaching hospital affiliated with an accredited medical school. To implement these bills, TMB may adopt rules as necessary to ensure that adequate care is provided and to prevent fraud and abuse.

Legislation also provided funding to determine qualifications for telemedicine, which was passed by the 74th Legislature as an unfunded mandate.

- SB1295 reinstates the "Fifth Pathway" program for international medical graduates and reauthorizes the Board to license qualified Fifth Pathway certificate holders.

Bills affecting physician assistants and acupuncturists:

- HB2099 expanded legislation from the last session to allow student loan reimbursement for physician assistants practicing in medically underserved areas if they trained in accredited programs in any state.
- HB2846 requires a physician to be on site to provide medical direction and supervision to a physician

assistant or advanced practice nurse once every 10 business days.

- SB1566 expands licensure qualifications of a physician assistant to require both successful completion of an accredited educational program and a valid certificate from the National Commission on Certification of Physician Assistants.
- SB1765 requires that the TMB adopt rules for the certification, practice, and continuing education of acupuncture acudetox specialists.
- The Acupuncture Board underwent sunset review and was continued until 2005. SB361 expanded the definition of acupuncture to include the terms nonsurgical and nonincisive. It also brought acupuncture licensing and discipline procedures into alignment with those of the Medical Board. SB1297 brings physician assistant and acupuncture peer review requirements and disciplinary action into alignment with those of the Medical Board. SB1566 also addresses peer review and disciplinary process, including administrative penalties.

Other bills of interest include:

- HB812, the so-called "gag rule" bill, expands the protection of communications between physicians and patients.
- SB383 amends the insurance code to extend patient protection rules to PPOs and prohibits gag clauses in provider contracts.
- SB384 requires personnel who perform utilization review functions be licensed physicians, nurses, or physician assistants.
- SB386 holds managed care entities liable when their negligent medical necessity decisions harm patients by delaying needed medical treatment.
- SB786 allows pharmacists to administer immunizations and vaccinations under a physician's written protocol.

Other legislation includes bills giving women direct access to their obstetrician/gynecologists; requiring managed care plans to cover minimum hospital stays of 48 hours following childbirth; and requiring HMOs to provide minimum hospital stays and breast reconstruction for mastectomies.

Among bills that did not pass this session was SB1699, which would have been an extensive revision of the licensing section of the Medical Practice Act

and which would have helped to clarify and streamline the licensure process and would have deleted obsolete language.

Governor Appoints Board Members

Governor George W. Bush has appointed six people to the Texas State Board of Medical Examiners. Their terms run until April 13, 2003.

Lee S. Anderson, M.D.

Dr. Anderson is an ophthalmologist in Fort Worth and president of Retina Consultants, P.A. He is currently the president of the Tarrant County Medical Society and is a former trustee of Saint Joseph's Hospital. Dr. Anderson earned his medical degree from the University of Texas Medical Branch at Galveston. He replaces Dr. Catalina E. Garcia of Dallas, whose term expired.

Peter Chang, M.D.

Dr. Chang is president and chairman of the board of Summit Medical Group, P.A., Houston. He has served as the chief of cardiology at Twelve Oaks Hospital and is currently a staff cardiologist at Methodist Hospital, St. Luke's Episcopal Hospital and Memorial Southwest Hospital. Dr. Chang earned his doctorate in biochemistry from Rice University and his medical degree from the University of Texas Medical School in Houston. He replaces Dr. John M. Lewis of Houston, whose term expired.

Edward "Ed" S. Hicks Sr.

Mr. Hicks is owner of Ed Hicks Imports of Corpus Christi. He has served on the president's council at Corpus Christi A&M University and Del Mar College. Mr. Hicks is also a member of the board of trustees of the Art Museum of South Texas and the Texas State Aquarium. The Board's newest public member, Mr. Hicks, replaces Cindy Jenkins of Stowell, whose term expired.

Larry Price, D.O.

Dr. Price is an assistant professor at the Texas A&M University Health Science Center College of Medicine and senior staff cardiologist at Scott and White Clinic in Temple. Board certified in four different areas of medicine, he earned his medical degree from the University of North Texas Health Science Center at Fort Worth/Texas College of Osteopathic Medicine. He replaces Suzanne Peck Low, D.O., of Portland, whose term expired.

Janet Tornelli-Mitchell, M.D.

Dr. Tornelli-Mitchell is a staff physician who specializes in internal medicine at the Cooper clinic in Dallas. Former medical director for PrimaCare Center in Carrollton, she currently serves as vice-chairman of the department of community medicine at Presbyterian Hospital in Dallas. Dr. Tornelli-Mitchell earned her medical degree from the University of Texas Medical Branch at Galveston. She replaces Dr. Ratna Solomon of Dallas, whose term expired.

Jenat T. Turner, J.D.

Mrs. Turner of Austin was previously employed as an attorney with the environmental protection division of the Office of the Attorney General. She is a graduate of Vanderbilt University and earned her law degree from the University of Houston Law Center. Mrs. Turner was reappointed to the Board.

Legal and Ethical Issues of HIV in Medical Practice

by Mary Anne Bobinski, J.D., LL.M.

Introduction

About three quarters of a million Americans are infected with HIV. The total number of infected persons in Texas is unknown; however, 39,871 of 562,166 AIDS cases reported through December 1996 came from Texas. The state had the fourth highest number of AIDS cases in the country. It is quite likely that every physician in Texas either has treated or will treat a patient with HIV infection.

HIV infection presents difficult problems of medical management. It also creates difficult ethical and legal questions. When do physicians have a duty to provide treatment to persons with HIV infection? May a physician disclose the identity of an HIV-infected patient who may be exposing others to the disease? Should an HIV-infected physician continue to provide direct patient care? Recent positive developments in medical treatments for persons with HIV infection have not altered the many difficult ethical and legal problems created by the disease.

This article will focus on three potentially problematic situations for physicians: (1) the duty to treat; (2) the duty to maintain confidentiality; and (3) the rights of HIV-infected physicians. Professional medical societies, legislatures, and courts have all struggled to establish standards of conduct in these areas. This article describes the emerging framework of rules relevant to Texas practitioners.

The Duty to Treat

A small yet significant number of physicians would prefer not to treat patients infected with HIV. In some cases, discrimination is motivated by the physician's judgments about sexual behavior or drug use that they believe are the "cause" of the disease. In other cases, discrimination stems from a fear of HIV transmission. HIV can be transmitted from patient to physician whenever the patient's blood or infected body fluids come into contact with the physician's open wound or mucous membranes. The risk of transmission is more than theoretical, yet very small. As of December, 1996, the CDC reported 52 cases of "documented" HIV transmission from patients to health care providers, along with 111 cases of "possible" transmission. Twenty-three of the total number of cases of potential transmissions involved physicians.

Physicians are prohibited from discriminating against persons with HIV infection by ethical guidelines issued by a variety of medical groups, including the AMA. The rules require physicians to provide treatment for HIV-infected patients so long as the treatment is within their range of competence. This apparently clear prohibition of discrimination has nonetheless proved problematic for some practitioners, who have sought to justify refusals of treatment by arguing that they are not competent to provide care for HIV-infected patients.

These ethical guidelines are mirrored by legal prohibitions against HIV-related discrimination. The federal Americans with Disabilities Act prohibits discrimination against people with disabilities in "places of public

accommodation." Courts generally find that persons with HIV infection have a "disability." The ADA specifically provides that physicians' offices and hospitals are public accommodations. Therefore, physicians generally are prohibited from discriminating against persons with HIV infection based on their disability. The ADA permits discrimination only where the patient presents a "significant risk" to the health or safety of the physician. Some physicians and dentists have argued that their refusal to provide care for HIV-infected patients was permissible because those patients presented a "significant risk" of HIV transmission, citing the documented cases of transmission reported by the CDC. Courts and administrative agencies have so far largely rejected these arguments.

In the United States v. Morvant, for example, the United States sued a private dentist for referring HIV-infected patients to another dentist who "specialized" in providing care for HIV/AIDS patients. Morvant argued that the referrals benefited the patients, who would receive care from a "specialist," and also protected Morvant and his staff from infection. The court relied on the ethical statements of the American Dental Association and the pronouncements of public health authorities, such as the CDC, in finding that Morvant's arguments were a pretext for discrimination. A Massachusetts obstetrician was recently named as a defendant in a similar suit, after he allegedly told an HIV-infected patient that she had to seek prenatal care from a special "high-risk" clinic because of her HIV status.

Physicians are familiar with being able to decide whether to accept a person as a patient and whether to refer patients to others. The ethical guidelines of the profession and federal law now place significant restrictions on physicians' abilities to refuse to treat people because of their HIV infection. Where the person's HIV status is the only basis for refusing to enter into a physician-patient relationship, the physician probably has an ethical and legal obligation to provide care. Physicians should make individualized assessments of patients' needs. Referrals generally should be made only where the treatment sought is outside the referring physician's specialization and the physician would have made a similar referral for a patient not infected by HIV.

Duty to Maintain Confidentiality

Physicians are quite familiar with their ethical and legal obligations to maintain the confidentiality of information obtained in the course of providing medical treatment. The rules governing the confidentiality of HIV-related information are considerably more complex and restrictive than those relating to other types of medical information. Under sections 81.101 and 81.103 of the Texas Health and Safety Code, information about a person's HIV status _ including even information about whether a person has undergone testing for HIV _ is subject to special statutory protection. The statute provides that this information may be released only in certain specified circumstances. A person's release of her own test result must be in writing, for example, and must state the person or class of persons to whom the test results can be released.

Physicians occasionally fear that an HIV-infected patient is engaging in conduct which presents a risk of transmission to others. When may a physician disclose a person's HIV status to protect sexual or needle-sharing

partners? Until a few years ago, physicians were only authorized to disclose a person's positive test result to his or her spouse. Physicians who violated the confidentiality rules potentially were subject to civil and criminal penalties.

In 1995, the Legislature enacted a significant expansion of notification authority. Under Section 81.051 of the Health and Safety Code, "a health care professional shall notify the partner notification program when the health care professional knows the HIV+ status of a patient and the health care professional has actual knowledge of possible transmission of HIV to a third party." The notification must be carried out in a manner authorized by the partner notification statute and must comply with Section 81.103's confidentiality protections. Two points are particularly important for the physician. First, the physician is only authorized to notify the partner notification program, not the potentially exposed individual. Second, although the statute uses the word "shall," which implies that physicians have a duty to make these disclosures, the statute also provides that "[a] health care professional who fails to make the notification required . . . [above] . . . is immune from civil or criminal liability for failure to make that notification."

The Rights of HIV-Infected Physicians

Considerable controversy also has surrounded the appropriate scope of practice for HIV-infected physicians. Public attention was initially drawn to the potential transmission of HIV from physician to patient because of five cases of HIV transmission in a dental practice in Florida. More recently, news reports indicate cases of HIV transmission from a surgeon to his patients in France. Despite the high level of public concern, however, HIV transmission from health care provider to patient appears to be a relatively rare phenomenon. In several look-back studies of surgical patients, for example, researchers have been unable to identify a single case of HIV transmission from surgeon to patient in this country.

The AMA's ethical guidelines stress that HIV-infected physicians should refrain from engaging in any form of medical practice that could present an "identifiable risk" of HIV transmission to their patients. This "zero risk" approach appears to be more restrictive than the approach adopted in the relevant statutes and case law. The same statutes that prohibit discrimination against HIV-infected patients also contain protections for HIV-infected physicians. Under the ADA, for example, hospitals should not restrict the practice of a physician unless he or she presents a "significant risk" to the health or safety of his or her patients.

Interestingly, courts have been willing to find that physicians present a "significant risk" to their patients, despite the small numbers of documented cases of transmission. The most important case for physicians practicing in Texas is *Bradley v. University of Texas M. D. Anderson Cancer Center*. In that case, the U.S. Court of Appeals with jurisdiction over Texas found that an HIV-positive surgical technician presented a significant risk of HIV transmission to his patients. The surgical technician worked in operating rooms close to open wounds and his duties included handling surgical instruments. Because the risk of HIV transmission was considered to be "significant," the court upheld the defendant's decision to move the technician to another position. This case suggests that HIV-infected physicians may be

prevented from engaging in some invasive procedures without violating statutes which prohibit discrimination against persons with disabilities.

Indeed, Texas has a specific statute which restricts the continued practice of HIV-infected physicians who present a significant risk to patients. All physicians who perform "exposure-prone" procedures have a duty to know their HIV status. If they are HIV-positive, they must secure the permission of an expert review panel before performing exposure-prone procedures and must then inform their patients of their status. HIV-infected physicians who perform non-exposure-prone procedures are not restricted. This statute has been difficult to implement because of questions about the identification of "exposure-prone" procedures. The CDC has not been able to develop a list of these procedures. Under Texas law, the responsibility has fallen on health professional associations or health facilities. Meanwhile, physicians who violate the statute may be subjected to disciplinary action.

Conclusion

This discussion of three problems associated with HIV infection is meant to sensitize readers to the complex — and to some extent unresolved — ethical and legal issues raised by the disease. Physicians confronted with questions about their ethical and legal responsibilities in a particular case should consult with their private legal counsel.

References

Articles

American Medical Association, Council on Ethical and Judicial Affairs. Code of Medical Ethics. 1996: 157-161.

Bobinski, Mary Anne. Risk and Rationality: The Centers for Disease Control and the Regulation of HIV-infected Health Care Workers. *St. Louis Univ. Law Review*, 1992: 36:213-307.

Centers for Disease Control and Prevention. HIV/AIDS Surveillance Report, 1996;8(no.2): 7, 21.

Doctor Withheld Prenatal Care to Woman with HIV, Suit Says. *AIDS Policy & the Law*, May 2, 1997:7.

Gibeaut, John. Dentists, Physicians Look at HIV Patients with Different Eyes, *American Bar Association Journal*, 1997; 83(July):51.

Karon, John M., et al. Prevalence of HIV Infection in the United States, 1984-1992. *JAMA* 1996; 276:126-131.

Cases

Bradley v. University of Texas M. D. Anderson Cancer Center, 3 F.3d922,925 (5th Cir. 1993).

United States v. Morvant, 898 F. Supp. 1157 (E.D. La. 1995)

Statutes and Regulations

Americans with Disabilities Act, 42 U.S.C.A. ___12101-12213 (West 1997).

Regulations Implementing the ADA, 28 C.F.R. _36.208 (1996)

Tex. Health and Safety Code Ann. __81.050, 81.101, 81.103, 85.201-.206 (West 1997)

The author is Professor of Law and Associate Director, Health Law and Policy Institute, University of Houston Law Center. The author thanks Meredith Canada, J.D. Candidate at the University of Houston Law Center, and Holly J. Harlow, J.D., Associate at Kruse & Luccia, L.L.P. and an LL.M. Candidate at the University of Houston Law Center, for their research assistance.

The Board thanks Prof. Bobinski for contributing the above guest article, which shall not be construed as a position statement of the Board nor legal advice. The sole reason for publication of the article is to increase the awareness of the public and medical licensees to the medical/legal/ethical issues regarding HIV/AIDS. Persons with legal questions regarding these issues should seek the advice of their respective legal counsel.

Medical Board Rule Changes

Chapter 163: Licensure

Implementation of statutory changes relating to licensure for the Fifth Pathway.

Section 163.14 relating to the temporary licensure of primary care physicians for practice in rural counties or medically underserved areas in Texas.

Chapter 176: Reinstatement

New section 167.2, relating to informal disposition, and renumber section 167.3.

Chapter 175: Fees

Amend section 175.1 to include processing and renewal fees for non-certified radiologic technicians and fees for acupuncture temporary license and acupuncture distinguished professor license.

Chapter 177: Certification of Non-Profit Health Organizations

Amend section 177.11, relating to undue influence by non-physician members.

Chapter 183: Acupuncture

Amend sections 183.2, 183.7, 183.20 and 183.22 concerning disciplinary guidelines, passage of herbology portion of the National Commission for the Certification of Acupuncturists (NCCA) examination, issuance of degrees and continuing acupuncture education.

Chapter 185: Physician Assistants

Amend 185.4, 185.6, 185.7, 185.14, 185.19, 185.20, and 185.24, relating to

licensure documentation, carryover of continuing medical education hours, temporary licenses, discipline and hearing procedures.

Proposed Rules:

At its August 7-9 meeting, the Board proposed the following rule changes for public comment:

Chapter 179: Investigations

Relating to reporting by physician assistants and acupuncturists.

Chapter 183: Acupuncture

Sections 183.17 and 183.22, relating to the registration of acudetox specialists and continuing medical education for acudetox specialists.

Chapter 185: Physician Assistants

Relating to licensure procedure, documentation and renewal requirements.

Chapter 193: Standing Delegation Orders

Implementing physician assistant licensure and supervision requirements.

Notice of Fee Increase

At its August 7-9 meeting, the Board voted to implement an increase of \$10 for physicians' annual fees. Information will be sent with annual registration notices.

Notice to Physicians Who Supervise Non-Certified Radiologic Technicians

If you supervise someone who performs radiologic procedures and who is not certified by the Texas Department of Health or who is not a registered nurse, please review the following information very carefully. A non-certified radiologic technician must be registered under the supervision of a licensed physician and must complete certain training requirements by Jan. 1, 1998. Rules for the training requirements have been written by the Texas Department of Health as mandated by the legislature. All non-certified radiologic technicians currently registered with this board have been sent an information packet, along with the appropriate applications to complete.

Compliance with these rules has two parts: (1) the non-certified radiologic technician must register with this board and renew annually; and (2) each supervising physician must file an application to supervise the non-certified radiologic technician. If you have questions after you and your technician have reviewed the information packet, please contact the Permits Department at (512) 305-7025.

Excerpts from Rules Proposed by the Texas State Board of Medical Examiners for Non-Certified Radiologic Technicians

194.1. Purpose. The purpose of these rules is to implement the provisions of Section 2.08 of the Medical Radiologic Technologist Certification Act, Texas

Civil Statutes, Article 4512m, applicable to non-certified radiologic technicians or non-certified technicians.

194.2. Definitions. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

Board _ The Texas State Board of Medical Examiners.

Non-certified technician (NCT) or registrant _ A person who is registered with the Board and either:

(A) is listed on the registry with the Texas Department of Health and meets one of the following qualifications on or after Jan. 1, 1998;

(i) has completed a mandatory training program under 25 Texas Administrative Code Section 143.17 (relating to Mandatory Training Programs for Non-Certified Technicians); or

(ii) if the person is licensed as a physician assistant in the State of Texas, has completed a mandatory training program under 25 Texas Administrative Code Section 143.17 (relating to Mandatory Training Programs for Non-Certified Technicians) or has met the alternate training requirements under 25 Texas Administrative Code Section 143.20 (relating to Alternate Training Requirements); or

(B) performs radiologic procedures for a physician to whom a hardship exemption was granted by the Texas Department of Health within the previous year, as defined in 25 Texas Administrative Code Section 143.19 (relating to Hardship Exemptions).

Supervision _ Responsibility for and control of quality, radiation safety and protection, and technical aspects of the application of ionizing radiation to human beings for diagnostic purposes.

194.3. Registration.

(a) Any person in the State of Texas performing radiologic procedures, as defined in Section 194.5 of this chapter (relating to Non-Certified Technician's Scope of Practice), under the supervision of a licensed Texas physician must be registered with the Texas State Board of Medical Examiners. The physician must be registered with the Board to supervise the non-certified technician.

(b) This section does not apply to registered nurses or to persons certified by the Department of Health under the Medical Radiologic Technologist Certification Act.

(c) An applicant shall apply for registration with the board on a form provided by the board and shall pay the appropriate fee established by the board. Each physician who supervises a non-certified technician shall apply on a separate application form.

(d) Applicants shall be 18 years of age or older and either:

(1) provide proof of the applicant's registry with the Texas Department of Health and meet one of the following qualifications:

(A) receive training and instruction as required in 25 Texas Administrative Code Section 143.17 (relating to Mandatory Training Programs for Non-Certified Technicians); or

(B) if licensed as a physician assistant, receive training and instruction as required in 25 Texas Administrative Code Section 143.17 (relating to Mandatory Training Programs for Non-Certified Technicians) or meet the alternate training requirements in 25 Texas Administrative Code Section 143.20 (relating to Alternate Training Requirements); or

(2) perform radiologic procedures for a physician to whom a hardship exemption was granted by the Texas Department of Health within the previous year under 25 Texas Administrative Code Section 143.19 (relating to Hardship Exemptions).

194.4. Annual Renewal.

(a) Registrants shall renew the registration annually by submitting a registration application, paying a fee, as specified by the board, to the Texas State Board of Medical Examiners by cashiers check or money order, and providing proof of the registrant's renewal of status on the Texas Department of Health registry.

(b) If the annual registration fee and if proof of the registrant's renewal status on the Texas Department of Health registry is not received on or before the expiration date of the registration, the following penalty will be imposed:

(1) one to 90 days late _ \$25 plus the required annual registration fee;

(2) over 90 days late _ registration will be submitted to the board for cancellation.

(c) The board by rule may adopt a system under which registrations expire on various dates during the year. For the year in which the expiration date is changed, registration fees payable on or before January 1 shall be prorated on a monthly basis so that each registrant shall pay only that portion of the registration fee which is allocable to the number of months during which the registration is valid. On renewal of the registration on the new expiration date, the total registration is payable.

(d) Registrants shall inform the board of address changes within two weeks.

194.5. Non-Certified Technician's Scope of Practice.

(a) A registrant may only perform the following radiologic procedures, unless otherwise expressly permitted by statute or rule:

- (1) bone densitometry utilizing a dual energy x-ray densitometer; or
- (2) chest, spine, extremities, abdomen, skull studies or other radiologic procedures utilizing standard film or film screen combinations and an x-ray tube that is stationary at the time of exposure; however, a registrant may not perform a procedure which has been identified as dangerous or hazardous by the Texas Department of Health in 25 Texas Administrative Code Section 143.16 (relating to Dangerous or Hazardous Procedures).
- (b) A registrant, other than a physician assistant, shall perform all radiologic procedures under the direct supervision or instruction of a physician in the State of Texas.
- (c) A supervising physician may not order, instruct, or direct a registrant to perform a radiologic procedure other than in compliance with applicable statutes and rules.
- (d) All registrants must comply with the safety rules of the Texas Department of Health relating to the control of radiation as set forth in the Texas Regulations for the Control of Radiation, 25 Texas Administrative Code, Chapter 289.

194.6. Suspension, Revocation or Nonrenewal of Registration.

(a) The board may refuse to issue a registration to an applicant and may, following notice of hearing and a hearing as provided for in the Administrative Procedure Act, take disciplinary action against any non-certified technician who:

- (1) violates the Medical Practice Act, the rules of the Texas State Board of Medical Examiners, an order of the board previously entered in a disciplinary proceeding, or an order to comply with a subpoena issued by the board;
- (2) violates the Medical Radiologic Technologist Certification Act or the rules promulgated by the Texas Department of Health;
- (3) violates the rules of the Texas Department of Health for control of radiation;
- (4) obtains, attempts to obtain, or uses a registration by bribery or fraud;
- (5) engages in unprofessional conduct, including, but not limited to, conviction of a crime, commission of any act that is in violation of the laws of the State of Texas if the act is connected with provision of health care, and commission of an act of moral turpitude;
- (6) develops or has an incapacity that prevents the practice of radiologic technology with reasonable skill, competence, and safety to the public as a result of:
 - (A) an illness;

(B) drug or alcohol dependency; or habitual use of drugs or intoxicating liquors; or

(C) another physical or mental condition;

(7) fails to practice as a non-certified technician in an acceptable manner consistent with public health and welfare;

(8) has disciplinary action taken against a certification, permit, or registration in another state, territory, or country or by another regulatory agency;

(9) engages in acts requiring registration under these rules without a current registration from the board.

(10) is removed, suspended, or has had disciplinary action taken against the registrant.

(b) The board may suspend, revoke, or refuse to renew the registration of a non-certified technician, upon a finding that a non-certified technician has committed any offense listed in this section.

Position Statement on Bariatric Medicine

This position statement was adopted by the Board on March 1, 1997, to assist practitioners in this state who practice bariatric medicine.

Quality medical practice dictates that obese and overweight citizens of Texas should be adequately treated for these conditions, not only to address serious medical problems associated with these conditions, but also to improve quality of life. A misconception appears to have arisen that the Texas State Board of Medical Examiners will indiscriminately discipline physicians for prescribing anorectic medications in conjunction with weight control programs. To the contrary, the Board does not intend to inhibit the proper prescribing of anorectic medications for weight control.

In fact, the Board recognizes that obesity is a disease that affects millions of people and causes a variety of medical conditions, which exacerbate or contribute to a great deal of suffering. As a complex multifactorial disease, the appropriate treatment of obesity can involve many disciplines, including genetics, physiology, metabolism, exercise and nutritional counseling, and other environmental, psychological, and cultural factors. Therefore, obesity may require treatment by a physician. The treatment, including the use of anorectics, of overweight individuals who do not meet a clinical definition of obesity, may be indicated as well. Such treatment and care may be appropriate not only for an individual's psychological well-being, but also because studies have shown that a relatively small amount of weight loss (i.e., five to 10 percent of body weight) can significantly reduce health risks such as coronary artery disease.

In determining the standard of practice for bariatric medicine, especially in the area of prescribing, the Board will continue to focus on the same concerns it has in other areas of medical practice. The Board's primary concern is the

provision of quality medical care, including performance of an appropriate physical and psychological evaluation, appropriate laboratory testing, discussion of treatment risk factors with the patient, follow-up care, monitored prescribing practices, and maintenance of proper medical records. The physician must ultimately evaluate the risks involved in the treatment of the patient in light of the benefits received by the patient, particularly regarding the prescribing of medication; and the analysis of risk versus benefit should be fully disclosed to the patient.

Controlled substances are subject to abuse by some individuals who seek them for other than their legitimate medical uses. The Board continues to be concerned about the inappropriate prescribing of controlled substances in the practice of Bariatric medicine, just as in other practice areas. A physician may be able to appropriately prescribe Schedule III, IV, or V drugs for treatment of obesity and overweight condition, as long as the standards of quality medical care described above are met; but the prescribing of Schedule II drugs would likely be assumed to be inappropriate without proper medical indications documented by the physician.

Acupuncture Rules Update Continuing Acupuncture Education

Continuing acupuncture education programs will be approved by the Board, and licensed acupuncturists will be required to obtain 17 hours of continuing acupuncture education per year, effective Dec. 1, 1998. Of the 17 hours, at least two hours must be in ethics training and at least five hours must be in herbology. A detailed copy of these rules will be sent with annual renewal forms later this year.

Herbology Exam

All applicants applying for licensure on or after Jan. 1, 1998, will also be required to pass the herbology portion of the NCCA examination.

Degrees

NACSCAOM-approved acupuncture schools in Texas may issue Masters of Science in Oriental medicine degrees.

Important Reminder for Acupuncturists

All written advertising must include the acupuncture license number, with the following exceptions: business cards; office, clinic or facility signs; single-line telephone listings; and billboard advertising.

CME Reminder for PA's

Physician assistants are required to complete 40 hours of continuing medical education between license renewal periods, including 20 hours of formal Category I, and 20 informal hours of CME approved by the American Academy of Physician Assistants.

Notice to Physician Assistants

The following is a reminder to PA's of important rules and regulations related to their practice. It represents answers to the questions most often asked the Board and its Investigations Department.

1. PA's are not permitted to prescribe controlled substances. They are permitted, if registered as a delegated agent, to call in prescriptions as ordered by the physician.
2. PA's are wholly responsible for their registration and their physician's request to supervise:

- a. PA must submit notice of practice location and supervising physician before starting to practice.
- b. Supervising physician must submit notice of intent to supervise within 30 days of employment of the PA.
- c. A letter of approval is sent to the PA and supervising physician confirming the employment.

A PA who is not registered in a timely and proper manner may be subject to disciplinary action by the Board.

3. PA's must maintain with the Board a current, valid mailing address in order to receive their annual registrations, newsletters and other relevant correspondence.

Notice to Physician Assistants Who Perform Radiologic Procedures

Recent legislative changes mandate that all persons performing radiologic procedures must be certified by the Department of Health or be registered under the supervision of a physician after completing certain training requirements, or the physician must be granted an exemption by the Department of Health. See p. 16 for further details, or call the Permits Department at (512) 305-7025.

The Texas State Board of Physician Assistant Examiners is made up of the following people:

Frank Ambriz, PA-C

Mr. Ambriz is a graduate of the University of Texas-Pan American and the University of Texas Medical Branch, Galveston. He is assistant professor of PA studies at UTMB-Pan American, Edinburg, Associate Director of the PA Program and is in family practice.

Emanuel Bodner

Mr. Bodner has a bachelor of business administration in industrial management from the University of Texas at Austin and is president of Bodner Metal and Iron, Houston. He was president of the Gulf Coast Chapter of the Institute of Scrap Recycling Industries and has served on the Governor's Committee on Disabled Persons and the Board of the Texas Rehabilitation Commission.

Dwight M. Deter, PA-C

Mr. Deter is a graduate of the Baylor College of Medicine PA Program and works in a private practice endocrine group in El Paso. He has chaired the

TSBPAAE board since it was created in 1994. He is past president of the Texas Academy of Physician Assistants and a former member of the PA Advisory Committee of TMB.

Glenn Forbes

Mr. Forbes is business development manager for Intel Corp. at their FAB 16 site in Fort Worth. Originally from New Haven, CT, he has a B.A. in accounting from Morehouse College in Atlanta, GA.

Tony Hedges, D.O.

Dr. Hedges graduated from the University of North Texas, Texas College of Osteopathic Medicine in Fort Worth in 1991. He did his family practice residency at the Osteopathic Medical Center of Texas, also in Fort Worth. He is in private practice at Lamb County Medical Associates in Littlefield. Prior to medical school, Dr. Hedges was a physician assistant in the U.S. Army.

Joe Mendoza Jr., M.D., F.A.A.F.P.

Dr. Mendoza received his B.A. from St. Mary's University in San Antonio and his M.D. from the Autonomous University of Guadalajara. He is active in the North Texas Chapter of the Texas Academy of Family Physicians and has had a private medical practice in Seymour for 13 years. He is affiliated with Seymour Hospital and Wichita Falls Rehabilitation Hospital.

The following board members are completing their terms. Their service to the Board of Physician Assistant Examiners is appreciated:

Jane Todd, M.D., F.A.C.S.

Dr. Todd finished Bowman Gray in 1973, when the Physician Assistant Training Program began there. After general surgery residency in New Orleans, she practiced surgery at MacGregor Clinic in Houston. She has practiced in rural East Texas for 13 years, the last six as a certified RHC.

Myra G. Weaver, M.P.H., PA-C

Ms. Weaver attended Agnes Scott College; the University of Florida/Santa Fe Community College Physician Assistant program; and the University of Texas Public Health School. She has served on the TSBPAE since 1994 and serves on the Medical Advisory Committee of El Buen Samaritano Family Health Center. She is a physician assistant in family practice at Travis Physician Associates in Austin.

Disciplinary Actions

The following is a summary of disciplinary actions taken by the full Board:

Anderson, Franklin Lee, M.D., Humble, TX, Lic. #G7978

An Agreed Order was entered 5-10-97 revoking his license; however, the revocation was stayed and the physician was placed on probation for 10 years under various terms and conditions. Action due to intemperate use of alcohol or drugs and unprofessional or dishonorable conduct.

Biddix, Jerry Wayne, M.D., Winters, TX, Lic. #E3855

An Agreed Order was entered 5-10-97 requiring the physician to take and

pass the Special Purpose Examination (SPEX) within six months. Action due to professional failure to practice medicine in an acceptable manner consistent with public health and welfare, and disciplinary action taken by his peers.

Braunsdorf, Dell Harkey, M.D., Galveston, TX, Lic. #J5548

An Agreed Order was entered on 3-1-97 suspending Dr. Braunsdorf's license; however, the suspension was stayed and the physician was placed on probation for five years under various terms and conditions. Action due to intemperate use of alcohol or drugs and unprofessional or dishonorable conduct.

Breitenstein, Larry Jack, D.O., Houston, TX, Lic. #D5923

On 5-9-97, the Disciplinary Panel of the Texas Medical Board entered an Order temporarily suspending Dr. Breitenstein's license based on evidence and information indicating intemperate use of alcohol or drugs, and unprofessional or dishonorable conduct that is likely to deceive or defraud the public or injure the public. The allegations related to the application for temporary suspension are to be the subject of a disciplinary hearing as soon as can be accomplished under the Administrative Procedure Act and Medical Practice Act.

Cammack, James Thomas, M.D., Kerrville, TX, Lic. #H5696

An Agreed Order was entered 5-10-97 suspending the physician's license; however, the suspension was stayed and he was placed on probation for 10 years under various terms and conditions. Action due to intemperate use of alcohol or drugs and unprofessional or dishonorable conduct that is likely to deceive or defraud the public.

Clark, Garth A.A., M.D., Sherman, TX, Lic. #H7005

On 2-11-97, the Disciplinary Panel of the Texas Medical Board entered an Order temporarily suspending Dr. Clark's license based on evidence and information indicating intemperate use of alcohol or drugs, violation of laws connected with practice of medicine, unprofessional or dishonorable conduct, prescribing or dispensing to an habitual user, nontherapeutic prescribing or treatment, and professional failure to practice medicine in an acceptable manner. The allegations related to the application for temporary suspension are to be the subject of a disciplinary hearing as soon as can be accomplished under the Administrative Procedure Act and Medical Practice Act.

Clynch, Michael Richard, M.D., Farmersville, TX, Lic. #F1458

An Agreed Order was entered on 3-1-97 suspending his license; however, the suspension was stayed and the physician was placed on probation for five years under various terms and conditions. Action due to prescribing or administering a drug or treatment that is nontherapeutic in nature or nontherapeutic in the manner the drug or treatment is administered or prescribed and professional failure to practice medicine in an acceptable manner.

Cohen, Nathaniel M., M.D., Tucson, AZ, Lic. #J5730

An Agreed Order was entered 5-10-97 wherein the physician shall not practice medicine in Texas until such time as he appears before the Board and provides sufficient evidence and information that indicates that he is

physically, mentally, and otherwise competent to practice medicine. Action due to disciplinary action taken by another state.

Cramer, Alan T., M.D., Houston, TX, Lic. #D0839

An Agreed Order was entered on 3-1-97 assessing an administrative penalty in the amount of \$3,000. Action due to violation of laws connected with his practice of medicine and failure to release medical records.

Douglas, Howard T., M.D., Hurst, TX, Lic. #F1511

A proposal for decision was heard concerning Dr. Howard T. Douglas on 5-10-97. An order was entered suspending his license until Dr. Douglas satisfies certain terms and conditions as outlined in the order. An administrative penalty in the amount of \$10,000 was also assessed. Action due to unprofessional or dishonorable conduct that is likely to deceive or defraud the public and professional failure to practice medicine in an acceptable manner consistent with public health and welfare. Action will not be final until all appeals have been exhausted.

Edwardson, Delbert L., M.D., Aransas Pass, TX, Lic. #E2197

An Agreed Order was entered 5-10-97 restricting his license for five years under various terms and conditions. Action due to prescribing or dispensing to an habitual user, prescribing or administering a drug or treatment that is nontherapeutic in nature or nontherapeutic in the manner the drug or treatment is administered or prescribed, and professional failure to practice medicine in an acceptable manner consistent with public health and welfare.

Farha, Abdul-Masih F., M.D., Houston, TX, Lic. #G0698

An Agreed Order was entered 5-10-97 restricting his license for three years under various terms and conditions and assessing an administrative penalty in the amount of \$1,000. Action due to professional failure to practice medicine in an acceptable manner consistent with public health and welfare.

Fink, John Mark, M.D., Wharton, TX, Lic. #G1896

A proposal for decision was heard concerning Dr. John Mark Fink on 5-10-97. The physician was publicly reprimanded. Action due to unprofessional or dishonorable conduct that is likely to deceive or defraud the public and professional failure to practice medicine in an acceptable manner consistent with public health and welfare. Action will not be final until all appeals have been exhausted.

Fischer, Roy Lee, D.O., Heath, TX, Lic. #C4317

An Agreed Order was entered 5-10-97 wherein the physician voluntarily and permanently surrendered his license.

Fuller, Charles H., III, M.D., Beverly Hills, CA, Lic. #C5056

A proposal for decision was heard concerning Dr. Charles Fuller on 2-27-97. Dr. Fuller's license was revoked. Action due to unprofessional or dishonorable conduct that is likely to deceive or defraud the public and professional failure to practice medicine in an acceptable manner consistent with public health and welfare.

Garcia Mowatt, Ibrahim, Jr., M.D., Houston, TX, Lic. #G2599

An Agreed Order was entered on 3-1-97 publicly reprimanding Dr. Garcia Mowatt and restricting his license for five years. Action due to professional failure to practice medicine in a manner consistent with public health and welfare.

Gifford, Loring A., M.D., Houston, TX., Lic. #D2888

An Agreed Order was entered on 1-18-97 wherein Dr. Gifford voluntarily and permanently surrendered his license to avoid the expense of litigation.

Gonzalez, Alfonso, M.D., Houston, TX, Lic. #C9360

An Agreed Order was entered 5-10-97 suspending the physician's license until such time as he appears before the Board and provides sufficient evidence and information that indicates he is physically, mentally, and otherwise competent to safely practice medicine. Action due to conviction of a crime of the grade of a felony or a crime of a lesser degree that involves moral turpitude, unprofessional or dishonorable conduct that is likely to deceive or defraud the public, and violation of laws connected with his practice of medicine.

Guinn, Edward William, M.D., Fort Worth, TX, Lic. #C5701

An Agreed Order was entered 5-10-97 assessing an administrative penalty in the amount of \$1,000. Action due to violation of Board rules.

Hatchett, Robert Kevin, M.D., Dallas, Lic. #J0518

On 4-5-97, the Disciplinary Panel of the Texas Medical Board entered an Agreed Temporary Suspension Order temporarily suspending Dr. Hatchett's license based on evidence and information indicating that his continuation in the practice of medicine would constitute a continuing threat to public welfare. The allegations related to the application for temporary suspension are to be the subject of an informal settlement conference as soon as can be accomplished under the Administrative Procedure Act and Medical Practice Act.

Johnson, Nancy Jean, M.D., Shreveport, LA, Lic. #G2403

An Agreed Order was entered 5-10-97 wherein the physician shall not practice medicine in Texas until such time as she appears before the Board and provides sufficient evidence and information that she is physically, mentally and otherwise competent to safely practice medicine. Action due to disciplinary action taken by another state and intemperate use of alcohol or drugs.

Jones, James Hollis, M.D., Denton, TX, Lic. #C2516

An Agreed Order was entered 5-10-97 wherein the physician voluntarily and permanently retired his license in order to avoid the expense of litigation.

Kastner, Aaron, M.D., Dallas, TX, Lic. #E7133

An Agreed Order was entered on 3-1-97 wherein Dr. Kastner voluntarily and permanently surrendered his Texas medical license to avoid the expense of litigation.

Kuhl, Peter Van Doren, M.D., San Antonio, TX, Lic. #E6462

An Agreed Order was entered on 3-1-97 suspending Dr. Van Doren Kuhl's license; however, the suspension was stayed and the physician was placed on probation for five years under various terms and conditions. Action due to intemperate use of alcohol or drugs.

Kulkarni, Narayan R., M.D., Brent, AL, Lic. #E9275

An Agreed Order was entered on 3-1-97 wherein Dr. Kulkarni voluntarily and permanently surrendered his Texas medical license to avoid the expense of litigation.

Lunceford, Tennie M., M.D., Lubbock, TX., Lic. #C1428

An Agreed Order was entered on 1-18-97 suspending her license until such time as Dr. Lunceford appears before the Board and provides sufficient evidence to show that she is physically, mentally, and otherwise competent to safely practice medicine. The Order was entered in response to concerns over her physical disability and her retirement.

Malabanan, Ben Carpio, M.D., Dallas, TX, Lic. #E0258

An Agreed Order was entered on 3-1-97 wherein Dr. Malabanan voluntarily and permanently surrendered his Texas medical license to avoid the expense of litigation.

Matsusaki, Ronald, H., M.D., Pasadena, TX, Lic. #G6344

An Agreed Order was entered on 3-1-97 assessing an administrative penalty in the amount of \$7,500. Action due to unprofessional or dishonorable conduct that is likely to deceive or defraud the public or injure the public and delegating professional medical responsibility to an unqualified person, violation of Board rules and aiding and abetting the unlicensed practice of medicine.

Ochoa, Miguel Rubio, M.D., Danville, IL, Lic. #D4001

An Agreed Order was entered 5-10-97 restricting his license until further order of the Board. The physician shall not practice medicine in Texas until such time as he appears before the Board and provides sufficient evidence and information that he is physically, mentally, and otherwise competent to safely practice medicine. Action due to disciplinary action taken in another state.

Payne, Steven M., M.D., Katy, TX, Lic. #J0184

An Agreed Order was entered on 3-1-97 restricting Dr. Payne's medical license under various terms and conditions. Action based on allegations which, if later proven, may constitute violation of the Medical Practice Act.

Rojas Walsson, Romeo, M.D., San Antonio, TX, Lic. #J8360

An Agreed Order was entered 5-10-97 suspending the physician's license; however, the suspension was stayed and the physician was placed on probation for five years under various terms and conditions. The physician was also assessed an administrative penalty in the amount of \$1,000. Action due to unprofessional or dishonorable conduct that is likely to deceive or defraud the public.

Runke, Lawrence Carl, M.D., Paris, TX, Lic. #J5463

An Agreed Order was entered 5-10-97 suspending the physician's license until such time as he appears before the Board and provides sufficient evidence and information that he is physically, mentally, and otherwise competent to safely practice medicine. Action due to disciplinary action taken by his peers and professional failure to practice medicine in an acceptable manner consistent with public health and welfare.

Rush, Avril Brickley, M.D., Fort Worth, TX, Lic. #G8390

An Agreed Order was entered 5-10-97 suspending the physician's license for a minimum time period of six months until such time as she appears before the Board and provides sufficient evidence that she is physically, mentally, and otherwise competent to safely practice medicine. Action due to intemperate use of alcohol or drugs.

Samuels, Michael G., D.O., Dallas, TX, Lic. #G3944

An Agreed Order was entered 5-10-97 suspending the physician's license; however, the suspension was stayed and he was placed on probation for five years under various terms and conditions. An administrative penalty in the amount of \$10,000 was also assessed. Action due to unprofessional or dishonorable conduct that is likely to deceive or defraud the public, prescribing or administering a drug or treatment that is nontherapeutic in nature or nontherapeutic in the manner the drug or treatment is administered or prescribed, persistently or flagrantly overcharging or overtreating patients, advertising professional superiority not readily subject to verification, and professional failure to practice medicine in an acceptable manner consistent with public health and welfare.

Scheiner, James J., M.D., Elkton, MD, Lic. #D3974

An Agreed Order was entered on 3-1-97 publicly reprimanding Dr. Scheiner and assessing an administrative penalty of \$2,500. Action due to unprofessional conduct that is likely to deceive or defraud the public or injure the public.

Shaughnessy, Dennis M., M.D., Midland, Lic. #F7913

On 7-3-97, the Disciplinary Panel of the Texas Medical Board entered an Order temporarily suspending Dr. Shaughnessy's license based on evidence and information indicating intemperate use of alcohol or drugs, and unprofessional or dishonorable conduct that is likely to deceive or defraud the public or injure the public. An Agreed Order was entered on 6-22-94 suspending his license until such time as he appeared before the Board and provided sufficient evidence to indicate that he was physically, mentally and otherwise competent to safely practice medicine. On 9-30-94, the Board entered an order which terminated the suspension of Dr. Shaughnessy's license and placed him on 10 year's probation under various terms and conditions. The allegations related to the application for temporary suspension are to be the subject of a disciplinary hearing as soon as can be accomplished under the Administrative Procedure Act and Medical Practice Act.

Spencer, John P., M.D., West Palm Beach, FL, Lic. #E4948

An Agreed Order was entered on 3-1-97 publicly reprimanding Dr. Spencer,

assessing an administrative penalty in the amount of \$1,000 and restricting his license for five years under various terms and conditions. Action due to unprofessional or dishonorable conduct that is likely to deceive or defraud the public or injure the public.

Sprott, Maxie Courtlandt II, M.D., Beaumont, TX, Lic. #G2230

An Agreed Order was entered 5-10-97 publicly reprimanding the physician. Action due to violation of Board rules.

Tacker, Willis Arnold, M.D., Redmond, WA, Lic. #D7325

An Agreed Order was entered 5-10-97 publicly reprimanding the physician and assessing an administrative penalty in the amount of \$100. Action due to violation of Board rules relating to mandatory completion and reporting of continuing medical education.

Teel, Theodore Trevanian Jr., M.D., Dallas, TX, Lic. #C3230

An Agreed Order was entered 5-10-97 restricting the physician's license for three years under various terms and conditions. Action due to professional failure to practice medicine in an acceptable manner consistent with public health and welfare.

Tovar, T. Jose Antonio, M.D., Bellaire, TX, Lic. #D7339

An Agreed Order was entered 5-10-97 revoking the physician's license; however, the revocation was stayed and he was placed on probation for 10 years under various terms and conditions. Action due to professional failure to practice medicine in an acceptable manner consistent with public health and welfare, and disciplinary action taken by his peers.

Tucker, Thomas A., M.D., San Antonio, TX., Lic. #D1837

An Agreed Order was entered on 1-18-97 suspending his license; however, the suspension was stayed and the physician was placed on probation for five years under various terms and conditions. Action due to professional failure to practice medicine in an acceptable manner consistent with public health and welfare.

Walker, Louis Edmond Jr., M.D., Houston, TX, Lic. #E1168

An Agreed Order was entered 5-10-97 indefinitely restricting the physician's license from prescribing any drug and/or treatment for any of his family members, including self-prescribing, and for any member of his office staff. The Board further orders his license restricted for five years under various terms and conditions. Action due to prescribing or administering a drug or treatment that is nontherapeutic in nature or nontherapeutic in the manner the drug or treatment is administered or prescribed, and professional failure to practice medicine in an acceptable manner consistent with public health and welfare.

White, Dezra, M.D., Houston, TX., Lic., #D5247

An Agreed Order was entered on 1-18-97 publicly reprimanding Dr. White and assessing an administrative penalty in the amount of \$10,000. Action due to unprofessional or dishonorable conduct that is likely to deceive or defraud the public.

Wimberly, David M., M.D., Webster, TX., Lic. #H5279

An Agreed Order was entered on 1-18-97 restricting his license for five years under various terms and conditions. Action due to intemperate use of alcohol or drugs.

Wilcox, James Allen, D.O., El Paso, TX, Lic. #H7253

An Agreed Order was entered 5-10-97 publicly reprimanding the physician. Action due to unprofessional or dishonorable conduct that is likely to deceive or defraud the public.

Wilson, W. Brad, M.D., Nacogdoches, TX., Lic. #H3293

An Agreed Order was entered on 1-18-97 publicly reprimanding Dr. Wilson. Action due to writing prescriptions for or dispensing to a person known to be an habitual user and professional failure to practice medicine in an acceptable manner consistent with public health and welfare.

Wimpee, Marc Warner, M.D., San Angelo, TX, Lic. #G5787

An Agreed Order was entered 5-10-97 suspending the physician's license until such time as he appears before the Board and provides sufficient evidence and information that he is physically, mentally, and otherwise competent to safely practice medicine. Action due to intemperate use of alcohol or drugs and professional failure to practice medicine in a manner consistent with public health and welfare.

Texas Medicaid Drug Use Review

Article not available.