

# Medical Board Report

**Newsletter of the Texas State Board of Medical Examiners**

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## **ABMS Provides Website Information**

The American Board of Medical Specialties provides individual physician board certification data on the Internet. This consumer-oriented web site called CertifiedDoctor at [www.certifieddoctor.org](http://www.certifieddoctor.org) offers free verification and searches for physicians board-certified by one of the approved member boards of the ABMS. The site receives 100,000 requests per week for information on locating and verifying certification of physicians.

Physicians are encouraged to visit the site and view the information about themselves that the public is accessing. ABMS allows physicians with web

sites to subscribe to a service that links their name on CertifiedDoctor to their web page. ABMS will also create the web page and link for physicians.

For more information on these services, call David Yapo at the ABMS Public Education Program, (800) 733-2267, extension 158.

### **Acupuncture Rule Changes**

Chapter 183, Acupuncture, repeal of current 183.17 and new sections 183.17 and 183.23, to implement Senate Bill 1765, 75th Legislature, which requires the Board of Medical Examiners to certify acudetox specialists, annually renew certification, and monitor continuing education for these registrants; amendments to 183.2, 183.4, 183.8, 183.17, 183.18, 183.20, 183.22 and 183.23, to correct the address of the agency on a document in section 183.8 and change the name of organizations throughout the chapter to be consistent with the new names.

### **Guidelines for Anesthesiologists Assistants**

In response to requests for guidance regarding use of anesthesiologists assistants, these guidelines are presented as a minimum standard. The guidelines should not be interpreted to suggest that the Board endorses or encourages the use of AAs nor that the Board takes a position regarding the use of AAs in relation to the quality of healthcare. Physicians may use these allied health professionals under the direct supervision of a qualified anesthesiologist under the delegation provisions of the Medical Practice Act, Section 3.06(d)(1). The responsibility for maintaining these standards is that of the supervising anesthesiologist who, ultimately, remains responsible for all delegated functions. For a copy of the full guidelines as well as a suggested job description for an AA, see the Board's web page, [www.tsbme.state.tx.us](http://www.tsbme.state.tx.us) or write to the Board at MC901, P.O. Box 2018, Austin, Texas 78768.

#### Qualifications

- Completion of accredited training program;
- 60 semester hours of additional approved college courses;
- Successful passage within three attempts of the National Certifying Examination for Anesthesiologists Assistants;
- Successful completion of Advanced Cardiac Life Support program;
- Successful completion of NCCAA CDQ and CME activities;
- Standard evaluation form and evaluations from prior employment.

#### Functions and Duties

- All delegated functions and duties must be performed under the direct, continual and close supervision of a qualified supervising anesthesiologist:
- Conduct perioperative patient evaluations;

- Administer anesthesia under direct supervision of a qualified anesthesiologist;
- Perform initial CPR/ACLS in life-threatening situations until supervising anesthesiologist arrives;
- Initiate multi-parameter monitoring prior to anesthesia or in acute-care settings;
- Utilize advanced treatment modalities to effect prescribed anesthetic plan.

#### Prohibited Functions

- Performing any medical service not specifically enumerated in written and signed job description;
- Representing themselves as physicians, anesthesiologists or physician assistants.

#### Supervisory Requirements

- An anesthesiologist who supervises an AA must:
- hold a current, unrestricted Texas medical license;
- be engaged full time in anesthesiology;
- be certified by the American Board of Medical Specialties or American Board of Osteopathic Specialty in anesthesiology.

#### Patient Choice

Except in emergencies, patients shall be informed that they will receive anesthesiology in the team mode, including the use of an AA, and that the physician may not be present in the OR at all times but must be present in the operating suite. If the patient so wishes, the supervising anesthesiologist shall offer a physician-administered anesthetic or referral.

#### Supervisory Ratios

Except in emergencies, the supervising anesthesiologist may simultaneously supervise no more than two anesthetics administered by an AA.

#### **Did You Know?**

Six NASA astronauts are licensed Texas physicians. Of the 126 astronauts, the following six hold Texas medical licenses:

James P. Bagian, M.D.; Ellen S. Baker, M.D.; Anna L. Fisher, M.D.; Bernard A. Harris Jr., M.D.; Scott E. Parazynski, M.D.; and Margaret Rhea Seddon, M.D.

#### **Board Adopts New Rules**

The Board adopted the following proposed rules that were published in the Texas Register:

Chapter 161, General Provisions, amends section 161.1, relating to the responsibilities of the Telemedicine Committee;

Chapter 163, Licensure, adds new sections 163.16 and 163.17, relating to licensure of certain international medical graduates who have successfully completed a fifth pathway program; amendments to 163.1 and 163.8, which will ensure that all examination requirements are consistent and equal; amendments to 163.1, 163.3, 163.5-163.7, 163.12, 163.14 and 163.15, to remove or change certain wording to ensure continuity with the Medical Practice Act and to be consistent with current terminology;

Chapter 165, Medical Records, repeals sections 165.1 and 165.2 and adds new sections 165.1-165.3, relating to medical record retention, including a provision that medical records of a patient under 18 shall be retained seven years or until the patient reaches age 21, whichever is longer;

Chapter 166, Physician Registration, amends section 166.2 relating to the definition of continuing medical education courses involving the study of medical ethics and/or professional responsibility and clarifying that continuing medical education courses recognized by the Committee for Review and Recognition of the Accreditation Council for Continuing Medical Education and sponsored by state medical societies meet the Texas State Board of Medical Examiners' requirements for continuing medical education for license renewal;

Chapter 171, Institutional Permits, amendment to 171.9, which will ensure that medical school faculty who would not be eligible for an unrestricted physician license, as outlined in Chapter 163 of the board's rules (relating to Licensure), would also not be eligible for a Faculty Temporary License;

Chapter 174, Telemedicine, new section 174.16 outlines the annual registration and continuing medical education requirements for those persons who hold a special purpose license for practice of medicine across state lines;

Chapter 175, Fees, amends section 175.1 relating to physician annual registration, from \$300 to \$310; amendment to 175.1 and 175.2 relating to fees for processing an application for acudetox specialists and annual renewal of acudetox specialists; fees for approval of continuing acupuncture and acudetox acupuncture education courses; and penalty fees for renewal of non-certified radiologic technician's registration expired for 1-90 days; amendments to 175.2 to increase the penalty fees for delinquent annual registration to be consistent with the Medical Practice Act, section 3.10(b)(7);

Chapter 179, Investigations, amends section 179.4 requiring peer review committees of health care entities to report professional review action that adversely affects clinical privileges for the physician assistant or acupuncturist;

Chapter 181, Contact Lens Prescriptions, new chapter which will set forth the criteria under which a patient may request and receive a contact lens prescription and under which a physician shall provide such prescription, as mandated by the 75th Legislature through the Texas Contact Lens Prescription Act;

Chapter 193, Standing Delegation Orders, repeals sections 193.1-193.5, 193.8, 193.9 and adds new sections 193.1-193.7, which will reorganize the chapter and comply with HB 2846 and SB 1566, 75th Legislature;

Chapter 194, Non-Certified Radiologic Technicians, adds new sections 194.1-194.11, outlining requirements for registration and disciplinary action relating to persons who perform radiologic procedures under the supervision of licensed physicians, and repeals section 193.7, Radiologic Technologists.

For additional information or copies of the complete rules, write to the Board at MC901, P.O. Box 1028, Austin, Texas 78768, or see our website, [www.tsbme.state.tx.us](http://www.tsbme.state.tx.us).

### **Governor Appoints Two to Board**

Governor George W. Bush announced the appointment of two members to the Board on November 4, 1997.

Ann Forehand Sibley, of Garland, is a homemaker and serves the Board as a public member. She has been active in the Highland Park Independent School District and is a founding member of the Criswell College Ladies Auxiliary. She earned a BBA from Southern Methodist University and a BFA from North Texas State University. Mrs. Sibley, whose term expires April 13, 1999, fills the unexpired term of Ann Forehand, of Texarkana, who passed away in July.

Eddie J. Miles Jr., of San Antonio, is also a public member of the Board. He is the unit coordinator in the low risk/work release facility of the Bexar County Sheriff's Department, as well as a part-time faculty member of San Antonio College, Palo Alto College and St. Philip's College. He earned a bachelor's degree from North Carolina A&T State University and master's degrees from Troy State University, the University of Oklahoma and Phillip's University. He serves on the Board of Trustees of the United Way, as a city council member in Live Oak, and on the executive board of the San Antonio Branch of the National Association for the Advancement of Colored People. He fills the unexpired term of Margaret L. Ford, Ph.D., of Houston, who resigned. His term ends April 13, 2001.

### **Birth Announcement**

Congratulations to Board member Jenat Turner and her husband, Brian, on the birth of their third son, Nicholas Charles, on December 20, 1997.

### **Disciplinary Definitions**

The following are terms used in Board publications. Definitions are summarized and cited from the Medical Practice Act. To view the entire Act, go to the TMB web page, [www.tsbme.state.tx.us](http://www.tsbme.state.tx.us) and follow the link to the Act.

administrative penalty [Sec. 4.125(a)]: The Board may impose an administrative penalty against a licensee who violates the Act or a Board rule. The penalty may not exceed \$5,000 per violation, with each day of violation

counting as a separate violation. The amount of the penalty is based on the seriousness of the violation; the harm caused by it; history of previous violations; the amount necessary to deter future violations; other matters as required.

informal settlement conference [Sec. 4.025]: after the investigation of a complaint, if it is determined there may be a violation, the physician is given an opportunity to show compliance with all requirements of the law and engage in settlement negotiations. The physician has the option to appear personally and may be represented by counsel. The conference is conducted with Board representatives, Board staff, the physician and his counsel. Witnesses are allowed to present statements to the panel. At the conclusion of the conference, recommendations for disciplinary action, dismissal, or other action may be made.

nondisciplinary rehabilitation order [Sec. 3.081]: Through an agreed order or after a contested proceeding, the Board may impose a nondisciplinary order based on, among other factors, self-reported intemperate use of drugs or alcohol that has not previously been the subject of a substance-abuse-related order. Impairment resulting from other mental, psychiatric or physical conditions may qualify for this type of order. Granting of such an order is discretionary with the Board. The order is nondisciplinary and nonpublic. Violation of the order may be grounds for public disciplinary action.

probation [Sec. 4.10]: several types of disciplinary actions may be probated. The probationer must conform to the conditions set out as terms of the probation in the board order. Upon proof of violation of the probation, the probation may be rescinded and additional disciplinary action may be imposed.

public reprimand [Sec. 4.12]: If the Board finds a violation of the Act, it may impose a public reprimand, which is published in the Board's press release and semiannual newsletter.

restrictions [Sec. 4.12]: The Board may restrict a medical license by limiting the practice, by excluding specific activities or by mandating periodic board review. The licensee may be required to participate in counseling or rehabilitation programs; to practice under the direction of another physician; to perform public service; to acquire continuing medical education; or other restrictions.

revocation, suspension [Sec. 4.10, 4.12]: The Board may, if it finds violation of the Act, suspend or revoke a physician's license. A physician whose license has been revoked may not apply for reinstatement for at least one year after the Board's action, and may not come before the Board more than once per year unless otherwise stated in an order. The applicant must prove that it is in the best interest of the public for the license to be reinstated.

### **Disciplinary Actions**

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

**Abrantes, Anthony Clark, M.D., Sherman, TX, Lic. #F6375**

An agreed order was entered on 8-9-97 suspending Dr. Abrantes' license; however, the suspension was stayed and he was placed on probation for five years under various terms and conditions. Action due to unprofessional conduct that is likely to deceive or defraud the public or injure the public, and administering a drug or treatment that is nontherapeutic in nature or nontherapeutic in the manner the drug or treatment is administered or prescribed.

**Athari, Mohammad, M.D., Baytown, TX, Lic. #E6718**

An agreed order was entered 9-20-97 ordering the physician to comply with certain terms and conditions for one year. Action due to professional failure to practice medicine in an acceptable manner.

**Baker, Jack L., M.D., Friendswood, TX, Lic. #J2489**

An agreed order was entered on 8-9-97 suspending Dr. Baker's license; however, the suspension was stayed and he was placed on probation for seven years under various terms and conditions. Action due to intemperate use of alcohol or drugs.

**Barrada, M. Ismail, M.D., Houston, TX, Lic. #G6898**

An agreed order was entered on 8-9-97 publicly reprimanding and restricting his license under certain terms and conditions as outlined in order. Also, Dr. Barrada was assessed an administrative penalty in the amount of \$10,000. Action due to violation of laws connected with practice of medicine and violation of Board rules.

**Berry, Shellie, M.D., Canton, TX, Lic. #H5222**

An agreed order was entered on 8-9-97 suspending her license until such time as Dr. Berry appears before the Board and provides sufficient evidence to show that she is physically, mentally and otherwise competent to safely practice medicine. Action due to failing to keep complete and accurate records and 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.

**Blair, Donald Levester Jr., M.D., Fort Worth, TX, Lic. #H4171**

An agreed order was entered on 8-9-97 publicly reprimanding Dr. Blair. Action due to failure to practice medicine in an acceptable manner consistent with public health and welfare.

**Boland, Gregory Harold, M.D., Pueblo, CO, Lic. #H7045**

An agreed order was entered on 8-9-97 wherein Dr. Boland voluntarily surrendered his license. Action due to a conviction of a crime of the grade of a felony or a crime of a lesser degree that involves moral turpitude, inability to practice medicine due to impairment by reason of illness or chemical abuse, and disciplinary action by another state.

**Bowles, Theodore A., Jr., D.O., San Antonio, TX, Lic. #H7392**

An agreed order was entered on 8-9-97 suspending his license until such time as Dr. Bowles appears before the Board and provides sufficient evidence to

show that he is physically, mentally, and otherwise competent to safely practice medicine. Action due to intemperate use of alcohol or drugs.

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

An agreed order was entered 2-7-98 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 intemperate use of alcohol or drugs, unprofessional or dishonorable conduct, and impairment due to illness or chemical abuse.

**Brenner, John Frederick, D.O., Fort Worth, TX, Lic. #F6476**

An agreed order was entered on 8-9-97 restricting his license for three years under various terms and conditions and assessing an administrative penalty in the amount of \$2,500. Action due to unprofessional or dishonorable conduct that is likely to deceive or defraud the public or injure the public.

**Brooks, Jesse Miles, M.D., Atlanta, TX, Lic. #B5748**

An agreed order was entered 2-7-98 suspending the physician's license; however, the suspension was stayed and he was placed on probation for five years under various terms and conditions. Action due to unprofessional conduct, prescribing or dispensing to habitual user, nontherapeutic prescribing or treatment, and failure to practice medicine in an acceptable manner consistent with public health and welfare.

**Buckley, Thomas P., M.D., Dallas, TX, Lic. #F2571**

An agreed order was entered 2-7-98 publicly reprimanding the physician and assessing an administrative penalty in the amount of \$1,000. Action due to unprofessional or dishonorable conduct, 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 failure to practice medicine in an acceptable manner consistent with public health and welfare.

**Byrnes, Robert J., D.O., Jacksonville, TX, Lic. #J1904**

An agreed order was entered on 8-9-97 assessing an administrative penalty in the amount of \$2,000. Action due to unprofessional or dishonorable conduct that is likely to deceive or defraud the public or injure the public.

**Castaneda, Jose Luis, M.D., Brownsville, TX, Lic. #F3818**

An agreed order was entered on 8-9-97 publicly reprimanding Dr. Castaneda and assessing an administrative penalty in the amount of \$5,000. Action due to failure to supervise delegates and abetting the unlicensed practice of medicine.

**Chepko, James Douglas, M.D., Houston, TX, Lic. #F0931**

An agreed order was entered 2-7-98 restricting his license for three years under various terms and conditions. Action due to failure to supervise adequately the activities of those acting under supervision.

**Cole, George Martin, D.O., Amarillo, TX, Lic. #F5175**

An agreed order was entered on 8-9-97 requiring the physician not to perform any "invasive surgical procedure" as that term is defined under the

agreed order until the physician appears before the Board and receives permission to perform such procedures. Action due to failure to practice medicine in an acceptable manner consistent with public health and welfare.

**Costa, Felix Augusto, M.D., Houston, TX, Lic. #D9972**

An agreed order was entered on 8-9-97 restricting his license for five years under various terms and conditions. Action due to disciplinary action by peers.

**Demetri, Leslie R., Sr., M.D., Dallas, TX, Lic. #D9417**

An agreed order was entered on 8-9-97 restricting his license for five years under various terms and conditions. Action due to failure to keep complete and accurate drug records.

**Dickey, Billy Melvin, M.D., El Paso, TX, Lic. #C8253**

An agreed order was entered 2-7-98 assessing an administrative penalty in the amount of \$5,000. Action due to unprofessional or dishonorable conduct that is likely to deceive or defraud the public or injure the public and failing to supervise adequately the activities of those acting under Respondent's supervision.

**Du, Liem Chi, M.D., San Antonio, TX, Lic. #H9892**

An agreed order was entered on 8-9-97 assessing an administrative penalty in the amount of \$1,000. Action due to unprofessional and dishonorable conduct likely to deceive or defraud the public or injure the public.

**Dunn, Jack, III, M.D., Lubbock, TX, Lic. #H6182**

An agreed order was entered 9-20-97 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, unprofessional or dishonorable conduct, prescribing or dispensing to 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, professional failure to practice medicine in an acceptable manner consistent with public health and welfare, and disciplinary action by peers.

**Ferguson, James W., M.D., Waco, TX, Lic. #E4327**

An agreed order was entered 11-22-97 restricting his license for four years under various terms and conditions. Action due to unprofessional conduct, failure to keep drug records, nontherapeutic prescribing or treatment, failure to practice medicine in an acceptable manner consistent with public health and welfare, and disciplinary action by peers.

**Fisher, Peter Bernard, M.D., Houston, TX, Lic. #C7448**

An agreed order was entered 2-7-98 wherein the physician voluntarily and permanently surrendered his license. Action due to intemperate use of alcohol or drugs, impairment due to illness or chemical abuse, and disciplinary action by peers.

**Foreman, Adolphus, M.D., Houston, TX, Lic. #D4997**

An agreed order was entered on 8-9-97 restricting his license for three years under various terms and conditions. Action due to failure to practice medicine in an acceptable manner consistent with public health and welfare.

**Fowler, James H., M.D., Dallas, TX, Lic. #F7755**

An agreed order was entered on 8-9-97 publicly reprimanding Dr. Fowler. Action due to unprofessional or dishonorable conduct that is likely to deceive or defraud the public or injure the public.

**Freiberger, John Jacob, M.D., Chapel Hill, NC, Lic. #F3968**

An agreed order was entered on 8-9-97 wherein Dr. Freiberger voluntarily surrendered his license in order to avoid the expense of litigation.

**Fustok, Abdel Kader, M.D., Houston, TX, Lic. #F4727**

An agreed order was entered on 8-9-97 assessing an administrative penalty in the amount of \$5,000. Action due to unprofessional or dishonorable conduct that is likely to deceive or defraud the public or injure the public.

**Gershon, Julian Robert, D.O., Denton, TX, Lic. #G9462**

An agreed order was entered 2-7-98 assessing an administrative penalty in the amount of \$1,000. Action due to failure to supervise adequately the activities of those acting under the supervision of the physician.

**Geyer, Walter Leslie, M.D., Fort Worth, TX, Lic. #D2226**

An agreed order was entered 11-22-97 suspending the physician's license; however, the suspension was stayed and he was placed on probation for three years under various terms and conditions. Action due to unprofessional conduct that is likely to injure the public and failure to practice medicine in an acceptable manner consistent with public health and welfare.

**Glidden, Weldon Edward, D.O., Quanah, TX, Lic. #G3397**

An agreed order was entered on 8-9-97 suspending Dr. Glidden's license; however, the suspension was stayed and he was placed on probation for five years under various terms and conditions. Action due to intemperate use of alcohol or drugs and unprofessional conduct. An agreed order was entered 2-7-98 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 intemperate use of alcohol or drugs and unprofessional or dishonorable conduct that is likely to deceive or defraud the public or injure the public.

**Goh, Ewe Ghee, M.D., Dallas, TX, Lic. #F4842**

An agreed order was entered on 8-9-97 assessing an administrative penalty in the amount of \$1,200. Action due to failure to practice medicine in an acceptable manner consistent with public health and welfare.

**Hargett, John M., M.D., McKinney, TX, Lic. #G3430**

An agreed order was entered on 8-9-97 suspending his license until such time as Dr. Hargett appears before the Board and provides sufficient evidence to

show that he is physically, mentally, and otherwise competent to safely practice medicine. Action due to intemperate use of alcohol or drugs.

**Harmon, David, D.O., Grand Junction, CO, Lic. #E9684**

An agreed order was entered on 8-9-97 indefinitely suspending his license until such time as Dr. Harmon appears before the Board and provides sufficient evidence to show that he is physically, mentally, and otherwise competent to safely practice medicine. Action due to intemperate use of alcohol or drugs, impairment due to illness or chemical abuse, and disciplinary action by another state.

**Harrison, Mark L., M.D., Key Biscayne, FL, Lic. #G4598**

An agreed order was entered on 8-9-97 publicly reprimanding Dr. Harrison and assessing an administrative penalty in the amount of \$1,000. Action due to failure to supervise adequately the activities of those acting under supervision, delegating responsibilities to unqualified persons, and abetting the unlicensed practice of medicine.

**Hinkley, Bruce Stanton, M.D., Arlington, TX, Lic. #D9497**

An agreed order was entered 2-7-98 restricting his license under various terms and conditions. Action due to Respondent's apparent conduct which appears to be a violation of a 1989 order.

**Hsu, Yu-to, M.D., Houston, TX, Lic. #F1065**

An agreed order was entered 9-20-97 publicly reprimanding Dr. Hsu. 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.

**Jakubowicz, Isaac E., M.D., Los Angeles, CA, Lic. #F5962**

An agreed order was entered on 8-9-97 publicly reprimanding Dr. Jakubowicz. Action due to conviction of felony or crime involving moral turpitude and disciplinary action by another state.

**Johnson, Hooper D., M.D., Harlingen, TX, Lic. #D7605**

A Proposal for Decision was heard concerning Dr. Hooper D. Johnson on 11-22-97. The physician's license was suspended for two years. Action due to unprofessional conduct and practice inconsistent with public health and welfare. The order will not become final until all appeals have been exhausted. The physician has 20 days from the service of the order to file a motion for rehearing.

**Kauffman, Robert P., M.D., Dallas, TX, Lic. #F4147**

An agreed order was entered on 8-9-97 suspending his license until such time as Dr. Kauffman appears before the Board and provides sufficient evidence to show that he is physically, mentally, and otherwise competent to safely practice medicine. Action due to intemperate use of alcohol or drugs, unprofessional conduct, and disciplinary action by peers.

**Koval, Robert John, M.D., Dallas, TX, Lic. #G1694**

An agreed order was entered on 8-9-97 requiring the physician to adhere to certain terms and conditions for five years and assessing an administrative

penalty in the amount of \$2,500. Action due to unprofessional conduct, prescribing or administering a treatment that is nontherapeutic in nature or nontherapeutic in the manner the treatment is administered or prescribed, and failure to practice medicine in an acceptable manner consistent with public health and welfare.

**Levie, Charles A., M.D., Jonesboro, IL, Lic. #H7455**

An agreed order was entered on 8-9-97 wherein Dr. Levie voluntarily and permanently surrendered his license. Action due to disciplinary action by another state.

**Lewy, Robert Ira, M.D., Houston, TX, Lic. #F4931**

An agreed order was entered on 8-9-97 publicly reprimanding Dr. Lewy and assessing an administrative penalty in the amount of \$2,000. Action due to failure to practice medicine in an acceptable manner consistent with public health and welfare and disciplinary action by peers.

**Lockwood, Richard L., M.D., Houston, TX, Lic. #G7083**

An agreed order was entered on 8-9-97 suspending his license until such time as Dr. Lockwood appears before the Board and provides sufficient evidence to show that he is physically, mentally, and otherwise competent to safely practice medicine. Action due to unprofessional conduct.

**Lostetter, Alvin Charles, M.D., Richardson, TX, Lic. #D6070**

An agreed order was entered 11-22-97 suspending the physician's license; however, the suspension was stayed and he was placed on probation for three years under various terms and conditions. Action due to unprofessional conduct that is likely to deceive or defraud the public or injure the public.

**Maes, Myron L., M.D., Baltimore, MD., Lic. #J3348**

An agreed order was entered 9-20-97 publicly reprimanding Dr. Maes and assessing an administrative penalty in the amount of \$100. Action due to violation of Board rules.

**Manion, Robert A., M.D., Junction, TX, Lic. #G6806**

An agreed order was entered 11-22-97 suspending his license; however, the suspension was stayed and he was placed on probation for two 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 or injure the public.

**Marasigan, Freddie P., M.D., Amarillo, TX Lic. #F6021**

An agreed order was entered on 8-9-97 assessing an administrative penalty in the amount of \$1,000. Action due to failure to practice medicine in an acceptable manner consistent with public health and welfare.

**Martinez, Daniel J., M.D., San Antonio, TX, Lic. #E8695**

An agreed order was entered 11-22-97 restricting his license for five years under various terms and conditions. Action due to intemperate use of alcohol or drugs.

**McCallum, Michael H., M.D., Spring, TX, Lic. #G6128**

An agreed order was entered on 8-9-97 suspending Dr. McCallum'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 conduct.

**McCoig, Edward Lloyd, M.D., Houston, TX, Lic. #F4258**

An agreed order was entered on 8-9-97 assessing an administrative penalty in the amount of \$500. Action due to violation of Board rules.

**McDaniel, Brian D., D.O., Victoria, TX, Lic. #J0999**

An agreed order was entered 11-22-97, restricting his license for five years under various terms and conditions. Action due to intemperate use of alcohol or drugs, failure to keep drug records, prescribing or dispensing to habitual user, nontherapeutic prescribing or treatment, administering dangerous drugs in an improper manner, practice inconsistent with public health and welfare, and violation of laws connected with practice of medicine.

**McDonald, Herbert B., M.D., Coupeville, WA, Lic. #E5843**

An agreed order was entered on 8-9-97 assessing an administrative penalty in the amount of \$500. Action due to violation of Board rules relating to mandatory completion and reporting continuing medical education.

**McFarland, Bruce Robin, M.D., Corpus Christi, TX, Lic. #H3353**

An agreed order was entered on 8-9-97 restricting his license for five years under various terms and conditions. Action due to intemperate use of alcohol or drugs.

**McFaul, Robert B., D.O., San Antonio, TX, Lic. #F9800**

An agreed order was entered 11-22-97 assessing an administrative penalty in the amount of \$5,000. Action due to patient care allegations relating to surgical patient.

**McGonagle, Martin E., M.D., Brownwood, TX, Lic. #G6563**

An agreed order was entered on 8-9-97 assessing an administrative penalty in the amount of \$10,000. Action due to unprofessional conduct, failure to keep complete and accurate drug records, and failure to practice medicine in an acceptable manner consistent with public health and welfare.

**Mehdi, Muzaffar, M.D., Dallas, TX, Lic. #E8071**

An agreed order was entered on 8-9-97 publicly reprimanding Dr. Mehdi. Action due to unprofessional conduct, persistently and flagrantly overcharging or overtreating patients, failure to practice medicine in an acceptable manner consistent with public health and welfare, and disciplinary action by peers.

**Messer, Dale L., M.D., Alvin, TX, Lic. #D2740**

An agreed order was entered 2-7-98 restricting his license for five years under various terms and conditions. Action due to violation of laws connected with practice of medicine, 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, administering dangerous drugs in an

improper manner, and failure to practice medicine in an acceptable manner consistent with public health and welfare.

**Moayad, Hamid, D.O., Bedford, TX, Lic. #H4562**

An agreed order was entered 11-22-97 restricting his license for three years under various terms and conditions. Action due to failure to keep complete and accurate records of purchases and disposal of drugs and failure to practice medicine in an acceptable manner consistent with public health and welfare.

**Moran, Wilmer Jr., M.D., Houston, TX, Lic. #E1684**

An agreed order was entered on 8-9-97 publicly reprimanding Dr. Moran and assessing an administrative penalty in the amount of \$100. Action due to violation of Board rules relating to mandatory completion and reporting continuing medical education.

**Morris, Dareld Ray, D.O., Amarillo, TX, Lic. #C8589**

An agreed order was entered on 8-9-97 publicly reprimanding Dr. Morris. Action due to abetting the unlicensed practice of medicine.

**Nessman, Lawrence, D.O., Wayne, NJ, Lic. #D1244**

An agreed order was entered on 8-9-97 restricting Dr. Nessman from practicing 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 by another state and unprofessional conduct.

**Norrid, Henry, D.O., Amarillo, TX, Lic. #E3077**

An agreed order was entered on 8-9-97 publicly reprimanding Dr. Norrid. Action due to failure to practice medicine in an acceptable manner consistent with public health and welfare.

**Pence, Ronald M., M.D., Bedford, TX, Lic. #H2677**

An agreed order was entered on 8-9-97 suspending Dr. Pence's license; however, the suspension was stayed and he was placed on probation for four years under various terms and conditions. Action due to unprofessional conduct and failure to practice medicine in an acceptable manner consistent with public health and welfare.

**Price, Steven L., M.D., Houston, TX, Lic. #E6571**

An agreed order was entered 9-20-97 publicly reprimanding Dr. Price and assessing an administrative penalty in the amount of \$1,000. Action due to failure to practice medicine in an acceptable manner consistent with public health and welfare.

**Pruett, Chester E., M.D., San Antonio, TX, Lic. #G1752**

An agreed order was entered 2-7-98 restricting his license for three 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.

**Raymond, Dennis Michael, M.D., Dallas, TX, Lic. #G8362**

An agreed order was entered on 8-9-97 restricting his license for five years under various terms and conditions. Action due to unprofessional conduct that is likely to deceive or defraud the public or injure the public and failure to practice medicine in an acceptable manner consistent with public health and welfare.

**Rettig, Jeffrey E., D.O., Groesbeck, TX, Lic. #H4845**

An agreed order was entered 11-22-97 restricting his license under various terms and conditions and assessing an administrative penalty in the amount of \$5,000. Action due to unprofessional conduct.

**Ringer, B.R. Jr., D.O., Houston, TX, Lic. #G0011**

A Proposal for Decision was reheard concerning Dr. Ringer. His license is suspended; the suspension is stayed and the physician placed on probation for five years under various terms and conditions, due to unprofessional or dishonorable conduct. The order will not become final until all appeals have been exhausted. The physician has 20 days from the service of the order to file a motion for rehearing.

**Rose, Mark Richard, M.D., San Antonio, TX, Lic. #J8112**

An agreed order was entered on 8-9-97 suspending Dr. Rose'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 conduct.

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

An agreed order was entered 8-9-97 wherein the physician voluntarily and permanently surrendered his license to avoid the expense of litigation.

**Schmidt, John X., D.O., Mansfield, TX, Lic. #G5580**

An agreed order was entered 8-9-97 publicly reprimanding Dr. Schmidt and requiring him to abide by certain terms and conditions for three years as outlined in order. Action due to failure to keep complete and accurate drug records and prescribing, administering, or dispensing dangerous drugs in an improper manner.

**Sconzert, Alan C., M.D., Pasco, WA, Lic. #J3214**

An agreed order was entered 8-9-97 publicly reprimanding Dr. Sconzert and assessing an administrative penalty in the amount of \$500. Action due to failure to practice medicine in an acceptable manner consistent with public health and welfare and disciplinary action by another state.

**Serrano, Antonio, M.D., Fort Worth, TX, Lic. #F1988**

An agreed order was entered 9-20-97 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 unprofessional or dishonorable conduct, violation of laws connected with practice of medicine, failure to keep drug records, prescribing or dispensing to habitual user, writing false or fictitious prescriptions, 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, administering dangerous

drugs in an improper manner, and intemperate use of alcohol or drugs which could affect the lives of patients.

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

An agreed order was entered on 8-9-97 suspending his license until such time as Dr. Shaughnessy appears before the Board and provides sufficient evidence to show that he is physically, mentally, and otherwise competent to safely practice medicine. Action due to intemperate use of alcohol or drugs and unprofessional conduct.

**Silberman, Michael K., M.D., Fort Worth, TX, Lic. #H5971**

An agreed order was entered 11-22-97 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 lesser degree that involves moral turpitude.

**Silva, Marcelino S., M.D., Lockhart, TX, Lic. #E6173**

An agreed order was entered on 8-9-97 publicly reprimanding Dr. Silva. Also, his license was suspended; however, the suspension was stayed and he was placed on probation for five years under various terms and conditions. Action due to unprofessional conduct that is likely to deceive or defraud the public and failure to practice medicine in an acceptable manner consistent with public health and welfare. An order was entered on 11-22-97 suspending the physician's license due to violation of probation.

**Steward, Robert H., M.D., Sanger, TX, Lic. #H3946**

An agreed order was entered on 8-9-97 suspending Dr. Steward's license; however, the suspension was stayed and he was placed on probation for seven years under various terms and conditions. Action due to unprofessional conduct, intemperate use of alcohol or drugs, and disciplinary action by peers.

**Talmadge, John Mills Jr., M.D., Dallas, TX, Lic. #E1948**

An agreed order was entered on 8-9-97 requiring the physician to comply with certain terms and conditions for five years. Dr. Talmadge was also assessed an administrative penalty in the amount of \$2,500. Action due to prescribing or dispensing to habitual user and failure to practice medicine in an acceptable manner consistent with public health and welfare.

**Talmage, Edward Arthur, M.D., Houston, TX, Lic. #D2722**

An agreed order was entered on 8-9-97 publicly reprimanding Dr. Talmage. Action due to prescribing or dispensing to habitual user and nontherapeutic prescribing or treatment.

**Tannerya, Richard Goan, M.D., Houston, TX, Lic. #F5388**

An agreed order was entered on 8-9-97 publicly reprimanding Dr. Tannerya. Action due to failing to supervise adequately the activities of those acting under supervision and delegating professional medical responsibilities to unqualified persons.

**Tessmer, Jon F., M.D., Houston, TX, Lic. #G5685**

An agreed order was entered 2-7-98 suspending the physician's license; however, the suspension was stayed and he was placed on probation 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.

**Theagene, Samuel M., M.D., San Antonio, TX, Lic. #J7690**

An agreed order was entered on 8-9-97 restricting his license for two years under various terms and conditions. Action due to unprofessional conduct.

**Thomson, Mary E., M.D., Wake Village, TX, Lic. #J2374**

An agreed order was entered on 8-9-97 revoking Dr. Thomson's license; however, the revocation was stayed and the physician was placed on probation for 10 years under various terms and conditions. Action due to conviction of a crime of the grade of felony or a crime of a lesser degree that involves moral turpitude, intemperate use of alcohol or drugs, impairment due to illness or chemical abuse, and violation of the laws connected with practice of medicine, and writing false or fictitious prescriptions.

**Tjong, Piang S., M.D., Fresno, CA, Lic. #F2481**

An agreed order was entered 2-7-98 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.

**Townsend-Parchman, Wallace, M.D., Carrollton, TX, Lic. #F7683**

An agreed order was entered 11-22-97 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, 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, impairment due to illness or chemical abuse, and failure to practice medicine in an acceptable manner consistent with public health and welfare.

**Tseng, Mao Hsung, M.D., Gowanda, NY, Lic. #F0335**

A Proposal for Decision was heard concerning Dr. Mao Hsung Tseng on 2-7-98. The physician's license was revoked. Action due to unprofessional or dishonorable conduct that is likely to deceive or defraud or injure the public and disciplinary action by another state. Action will not be final until all appeals have been exhausted.

**Tucker, Donald Tommy, M.D., Austin, TX, Lic. #G4063**

An agreed order was entered 11-22-97 assessing an administrative penalty in the amount of \$1,000. Action due to aiding or abetting the unlicensed practice medicine.

**Tyson, Samuel Tilden II, M.D., Dallas, TX, Lic. #H2185**

An agreed order was entered on 8-9-97 publicly reprimanding Dr. Tyson.

Action due to failure to practice medicine in an acceptable manner consistent with public health and welfare.

**Ussery, Fred M. III, M.D., Houston, TX, Lic. #E2908**

An agreed order was entered on 8-9-97 indefinitely suspending his license until such time as Dr. Ussery appears before the Board and provides sufficient evidence to show that he is physically, mentally, and otherwise competent to safely practice medicine. Action due to illness.

**Waddingham, Rand E., M.D., Crane, TX, Lic. #H5214**

An agreed order was entered on 8-9-97 requiring the physician to adhere to certain terms and conditions for two years. Action due to violations of Board rules relating to acceptable medical practice.

**Ware, Stephen Harrison, III, M.D., Corpus Christi, TX, Lic. #F3375**

An agreed order was entered 2-7-98 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.

**Ware, Steven Alan, M.D., Houston, TX, Lic. #F4652**

An agreed order was entered on 8-9-97 assessing an administrative penalty in the amount of \$2,500. 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.

**Whitaker, John Fredric, M.D., Dallas, TX, Lic. #D0347**

An agreed order was entered on 8-9-97 wherein the physician voluntarily and permanently retired his license in order to avoid the expense of litigation.

**Whitelock, Paul, M.D., Durango, CO, Lic. #D7364**

An agreed order was entered on 8-9-97 publicly reprimanding Dr. Whitelock 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.

**Winterowd, Keith Gene, D.O., DeSoto, TX, Lic. #D1174**

An agreed order was entered on 8-9-97 wherein Dr. Winterowd voluntarily surrendered his license. Action due to conviction of felony or crime of the grade of felony or a crime of a lesser degree that involves moral turpitude, unprofessional conduct, violation of the laws of the state of Texas if the act is connected with the practice of medicine, and failure to practice medicine in an acceptable manner consistent with public health and welfare.

**Yentis, Richard David, M.D., Fort Worth, TX, Lic. #D5333**

An agreed order was entered on 8-9-97 revoking Dr. Yentis' license. Action due to conviction of felony or crime involving moral turpitude and unprofessional conduct.

### **Physician Information that is Public**

When members of the public call the Board to verify physicians' licenses, they are given the following information:

- Always provided:
- License number
- License issue date
- License expiration date
- Registration information
- Disciplinary information
- Provided on request:
- Date of birth
- Place of birth
- Social Security number
- Sex
- Ethnicity
- Full name
- Mailing address
- Practice address
- Medical school
- Graduation year
- Method of licensure
- Specialty and board certification, if any (as reported on renewal form).

### **The Texas Medicaid Drug Use Review Program**

By Curtis Burch Jr., R.Ph.

The Texas Medicaid Drug Use Review Program provides the following information to practitioners regarding pharmaceutical therapy. DUR Board members and staff appreciate the Texas State Board of Medical Examiners providing this space for educational updates.

Texas Medicaid Drug Use Review Program Criteria For Outpatient Use Now Available On The TDH Website

The criteria used in the DUR program are prepared by the Drug Information Service, University of Texas Health Science Center at San Antonio, and the College of Pharmacy, the University of Texas at Austin. The criteria are reviewed and approved by the 12-member Drug Use Review Board composed of six physicians and six pharmacists.

Criteria, program information and a list of DUR Board members are available for viewing and printing from the Texas Department of Health DUR Website. The address is <http://www.tdh.texas.gov/hcf/vdpdur.htm>

Butorphanol (Stadol<sup>®</sup> Injection and Stadol<sup>®</sup> NS)

On October 31, 1997, all formulations of butorphanol became classified as Schedule IV substances by the Drug Enforcement Administration. Drug Use Review profiles conducted on the Medicaid patient population have identified a significant number of patients with excessive utilization of butorphanol nasal spray. Special care should be exercised in prescribing butorphanol to

emotionally unstable patients and those with a history of drug misuse. When long-term therapy is necessary, such patients should be closely supervised. Patients should be cautioned not to exceed the dosage prescribed.

Because of the opioid antagonist properties of butorphanol, patients who are physically dependent on narcotics should not be given butorphanol as they may experience withdrawal symptoms. Such patients should have an adequate period of withdrawal from opioid drugs prior to implementing butorphanol therapy. Butorphanol has precipitated opioid withdrawal symptoms in patients taking opioid analgesics chronically. Written prescriptions for butorphanol should have the quantity prescribed and any authorized refills written out in addition to the numeric quantity to deter alteration of the prescription.

#### Bromfenac Sodium Capsules (Duract<sup>®</sup>) Revised Labeling

Duract<sup>®</sup> is a nonsteroidal anti-inflammatory drug specifically indicated for short-term management of acute pain (use for 10 days or less), and is not labeled for long-term use in chronic conditions such as osteoarthritis or rheumatoid arthritis. Serious liver damage has occurred in patients taking Duract<sup>®</sup> for more than 10 days. Serious hepatic effects reported include jaundice, fulminant hepatitis, and liver failure (some requiring transplantation). While not recommended, if a physician determines that the risk of longer use is justified by the potential benefit, the patient's transaminases (particularly ALT), and bilirubin must be closely monitored for signs of hepatotoxicity. New labeling information recommends that patients should be advised to take Duract<sup>®</sup> (strictly) as directed.

#### Ketorlac (Toradol<sup>®</sup>)

Toradol<sup>®</sup> is a nonsteroidal anti-inflammatory drug specifically indicated for the short-term (up to five days) management of moderately severe acute pain that requires analgesia at the opioid level. Toradol<sup>®</sup> is not indicated for minor or chronic painful conditions. The oral dosage form is indicated only for continuation of therapy following initial parenteral administration. Because the risk of gastrointestinal bleeding and other severe adverse effects increases with the duration of treatment, ketorlac should not be administered by any route or combination of routes for longer than five days.

#### Astemizole (Hismanal<sup>®</sup>)

The FDA has requested the addition of more information in the product labeling regarding cardiovascular adverse events, new potentially serious drug interactions and rare reports of anaphylaxis. The new labeling provides information about specific warning against the concurrent use of Hismanal<sup>®</sup> with Posicor<sup>®</sup> (mibefradil dihydrochloride), Biaxin<sup>®</sup> (clarithromycin) and TAO<sup>®</sup> (tolenadomycin). These warnings are in addition to the previously published contraindications with Nizoral<sup>®</sup> (ketoconazole), Sporonax<sup>®</sup> (itraconazole), erythromycin or quinine. Additional precautions are listed regarding concurrent use of Hismanal<sup>®</sup> with HIV protease inhibitors such as Crixivan<sup>®</sup> (indinavir), Norvir<sup>®</sup> (zidovudine), Invirase<sup>®</sup> (saquinavir) and Viracept<sup>®</sup> (zalcitabine); serotonin reuptake inhibitors such as Prozac<sup>®</sup>

(fluoxetine), Luvox (fluvoxamine), Zoloft (sertraline), Serzone (nefazodone), Paxil (paroxetine); and the antiasthma medication Zflo (zileuton). Additionally it is now recommend that Hismanal not be taken with grapefruit juice due to the juice's inhibition of the cytochrome P450 enzyme system. Patients should be cautioned not to increase the dose of Hismanal in an attempt to accelerate the onset of action.

#### Drug Interactions with Grapefruit Juice

An article in the Journal of Clinical Pharmacology and Therapeutics, Volume 61, Number 4, April 1997, reports significant increases in blood levels of some drugs when taken with grapefruit juice. The increase is due to grapefruit's inhibition of cytochrome P450, similar to the action of erythromycin, ketoconazole or itraconazole. Felodipine (Plendil), cyclosporine (Sandimmune), terfenadine (Seldane) and midazolam (Versed) are listed as having significant increase in blood levels when taken with grapefruit juice. Now that the FDA has added grapefruit juice to the precautions on astemizole (Hismanal), patients should be cautioned regarding taking other drugs metabolized by the cytochrome P450 3 A4(CYP4A4) pathway with grapefruit juice.

Please contact Curtis Burch Jr., R.Ph., at (512) 338-6922 if you have comments or need additional information.

The above article is provided for informational use only. Physicians should exercise their clinical judgment as to the appropriateness of treatment options on a case-by-case basis. The above article should not be construed as a position statement of the Board. The Board thanks Curtis Burch for contributing the guest article.

#### Frequently Asked Questions

Editor's Note: beginning with this issue, the Medical Board Report will answer some of the Board's most often-heard questions.

#### **Q: What happens to a complaint filed with the Board?**

A: Anyone may file a complaint, but complaints must be submitted in writing. A form for filing a complaint may be obtained by calling 1-800-201-9353.

Complaints are investigated by professional investigators. All investigations are confidential. The complainant's identity remains confidential unless that person is a complaining witness at a contested case hearing.

If a complaint is determined to be within the Board's jurisdiction and the investigation indicates a possible violation of the Medical Practice Act, the case is referred to the Board's Legal Department and Hearings Division. The physician, physician assistant or acupuncturist against whom the complaint is filed, as well as the complainant or other witnesses, will be informed of an Informal Settlement Conference/Show Compliance hearing, which is conducted with Board representatives and Board staff. The physician may be accompanied by an attorney. Board representatives will hear the case and

recommend one of the following actions: dismissal of the case; proposing corrective action in the form of an Agreed Board Order; referring it to the State Office of Administrative Hearings for a contested case hearing; or deferring it for further investigation.

The physician, physician assistant or acupuncturist may accept or reject a proposed Agreed Order. If it is not accepted, it also goes to the State Office of Administrative Hearings for a hearing, after which an administrative law judge will prepare a recommendation. Finally, the full Board hears the recommendation in the form of a Proposal for Decision and issues a final Order. The hearings are open to the public, and Board Orders and Agreed Board Orders are public documents.

About 83 percent of investigations are closed by a Board committee for lack of evidence; about 40 percent of cases heard in ISC/Show Compliance Hearings are also closed by the Board.

**Q: Why does it take so long to get a license?**

A: The reasons are twofold: (1) lack of attention on the applicants' part; and (2) staff shortages on the Board's part.

1. Many applicants fail to read the entire instruction packet; to determine their own eligibility; and to recognize that many issues are statutory and cannot be resolved by Board staff.

Foreign medical graduates often think that documentation requirements do not apply to them. Other applicants think they don't need hospital evaluations because staff has changed; however, historical documents do not change.

2. Licensure staff increases have not kept up with increases in applications. The following shows that applications have increased by 553 since 1994:

FY94 1,576

FY95 1,733

FY96 1,873

FY97 2,129

One additional staff member should be hired for each increase of 100 applications. Three new staff members were allocated by the 1997 Legislature. It takes six to eight months for a licensure investigator to be adequately trained to take over routine cases, and up to a year to train an investigator for complicated or difficult applications. In addition, low salary levels increase turnover of licensure staff.

Because each staff member handles more than 100 applications - and some senior staffers have more than 200 applications - it is nearly impossible for them to respond to telephone requests quickly.

While a Texas license is not easy to obtain, licensure staff is proud of the job they do in licensing only qualified physicians.

### **HIV/AIDS Survey**

The HIV/AIDS Interagency Coordinating Council was established during the 73rd Legislative Session by Senate Bill 286. The purpose of the Council is to facilitate communication between agencies and associations involved in providing HIV/AIDS services to individuals, families and communities. The Council is concerned about an insufficient number of physicians and other medical personnel qualified and willing to treat persons with HIV disease. Your voluntary and anonymous participation in this survey would be very valuable to the Council.

#### **1. What percentage of your current patient population is HIV+?**

0%  1-10%  11-30%  31-50%  51-75%  76-100%

I don't know whether or not any of my patients are HIV+

#### **2. Did your initial medical training (medical school + internship + residency) include training on the HIV disease?**

zero training  some training  extensive training

#### **3. In the past two years, have you attended any CME (continuing medical education) that included information about the HIV disease?**

None  Programs which included a segment on HIV/AIDS

Programs exclusively devoted to HIV/AIDS

#### **4. Would you like to see more CME programs or articles available that would help keep you up to date on the latest information and treatments for HIV+ patients?**

Yes, that would be useful in my practice

No interest

#### **5. Do you feel confident about your training, knowledge, skills, and ability to take care of HIV+ patients?**

a little uneasy

somewhat confident

I rely on consultation with specialists in that field

I frequently refer to texts or other literature/references for up-to-date information on that topic

No problem: I can care for HIV+ patients with my eyes closed and my hands tied behind my back

**6. Are you willing to care for HIV+ patients?**

Yes, it's no problem for me

No, I refer them to specialists

No, I disapprove of their lifestyles

No, I'm concerned I might contract the disease if I care for them

No, my other patients will leave if they find out that I care for HIV+ patients

**ADDITIONAL COMMENTS:**

Please tell us a little about your practice, for statistical purposes:

Your specialty \_\_\_\_\_

Year you graduated from medical school (remember, this is anonymous)  
\_\_\_\_\_

Do you practice in a rural or urban setting?  rural  urban

The results of this survey will be summarized and reported on our web page in about four weeks at <http://www.tsbme.state.tx.us>

To request the most recent annual report of the HIV/AIDS Coordinating Council, contact the Council at (512) 490-2505 or FAX (512) 490-2544.

Thank you for your assistance and contributions to this survey.

Please complete this form, fold into thirds, and return it to:

HIV/AIDS Coordinating Council  
MC 263  
PO Box 2018  
Austin, TX 78768-2018

### **Task Force Develops List of Narrow Therapeutic Index Drugs**

Senate Bill 609, Section 21, of the 75th Legislature directed the Texas State Board of Pharmacy, in consultation with the Board of Medical Examiners, to develop a list of narrow therapeutic drugs which are subject to the requirements of the legislation.

A task force made up of representatives of the Pharmacy Board, the Medical Board, related associations and the pharmaceutical industry developed its recommendations. Based on those recommendations, the Pharmacy Board then developed a proposed rule, summarized as follows:

□309.3 (d) (2) A prescription for a narrow therapeutic index drug on which a physician has originally allowed generic substitution may be refilled only by using the same drug produced by the same manufacturer as last dispensed. If the pharmacist does not have the same drug in stock, the generic equivalent may be dispensed if the patient and prescribing physician are notified. The narrow therapeutic index drugs shall be all oral dosage forms of the following:

- A. digoxin
- B. phenytoin
- C. warfarin sodium
- D. theophylline
- E. levothyroxine
- F. carbamazepine
- G. valproic acid
- H. lithium
- I. divalproex sodium

The Pharmacy Board, in consultation with the Medical Board, should establish a method for review of the list of narrow therapeutic index drugs when deemed appropriate, but at least every two years.

The task force also recommended that the Board of Pharmacy need not use emergency rule-making procedures when publishing the rules to implement the provisions of section 21 of SB 609, but instead should use the normal rule-making process, which allows public comment prior to implementation of the rules. To obtain a full copy of the proposed rule or to comment on it, write to the Texas State Board of Pharmacy, Ste. 3-600, 333 Guadalupe St., Box 21, Austin TX 78701-3942.

### **The Texas State Board of Physician Assistant Examiners**

Governor George W. Bush appointed three new members to the Board of Physician Assistant Examiners on September 8, 1997. Their terms expire on February 1, 2003.

Abigail Rios Barrera, M.D., originally from Raymondville, holds a B.S. in Pharmacy from the University of Texas at Austin and an M.D. from the

University of Texas Health Science Center, San Antonio. She is board certified by the American Board of Family Practice and is a licensed pharmacist.

Dr. Barrera is in group practice in San Antonio and is affiliated with Metropolitan Methodist Hospital, Baptist Hospital System, Santa Rosa Hospital and Santa Rosa Children's Hospital, all in San Antonio. She belongs to the Bexar County Medical Society, the Texas Medical Association, the Texas Academy of Family Physicians and the American Academy of Family Physicians. She replaces Jane Todd, M.D., on the Board.

Jerry K. Clements was born and raised in Fort Worth. She attended Texas Christian University and received a B.S. in Education, magna cum laude and Phi Beta Kappa. She taught special education classes in the Arlington Independent School District. She received a J.D. from Baylor University Law School, cum laude, and was editor-in-chief of the Baylor Law Review.

Ms. Clements is shareholder at Locke Purnell Rain Harrell in Dallas. She is a trial lawyer practicing in commercial litigation. She is admitted to practice before the U.S. Supreme Court, the courts of the state of Texas, the U.S. Court of Appeals for the Fifth Circuit, and the U.S. District Courts for the Northern, Eastern, Southern and Western districts of Texas.

Michael Belgard, P.A.-C, has served as a medical corpsman in the U.S. Navy and the U.S. Marine Corps. He attended Northeast Louisiana University's pre-med program, the U.S. Army Academy of Health Sciences Physician Assistant Program at Fort Sam Houston, San Antonio, and the University of Oklahoma, where he received a B.S.-Physician Associate in 1990.

He began practicing in rural health clinics in East Texas in 1993. He is employed by Memorial Health Systems of East Texas, Lufkin, and practices with Curtis R. Haley, M.D., in San Augustine.

### **PA Rule Changes**

Chapter 185, Physician Assistants, amends sections 185.2, 185.4, 185.6, 185.19, 185.20, 185.22, 185.23, 185.25, repeals section 185.21 and adds new section 185.21, which will update the definition for physician assistant, add documentation requirements for licensure, clarify documentation which shall be submitted as part of the renewal process, update grounds for denial of licensure and for disciplinary action, add reporting requirements for investigations, update prehearing procedures, and add new information regarding administrative penalties.

### **Proposed Board Rules**

At its April 2-4 meeting, the Board proposed the following new rules for publication in the Texas Register and public comment:

Proposed new chapter, Standards for Physicians Practicing Integrative and Complementary Medicine, will establish definitions and standards to allow physicians a "reasonable and responsible degree of latitude in the kinds of therapies they offer their patients."

The proposed rules will provide definitions, establish guidelines for the provision of Integrative and Complementary medicine and set standards to determine whether a physician's conduct violates the Medical Practice Act, Sections 3.08(4), 3.08(4)(E) and 3.08(18) in regard to providing complementary and integrative medical treatment.

To obtain a copy of the complete rules or make comments, write to the Board at MC901, P.O. Box 1028, Austin, Texas 78768.

### **Reminders: Annual Registration and Continuing Medical Education Requirements**

Did you know that the most common error when completing the annual registration form is failure to sign the form? This is one of the most important, yet commonly overlooked, items on the renewal application. By signing the form, the physician is affirming that all questions have been answered correctly. When the form has to be returned to the physician for correction, this could delay the renewal process up to several weeks. Please pay close attention to the following when renewing your license:

- Complete every question on the annual registration form - front and back.
- Sign the form - no stamped signatures.
- Make sure to report all continuing medical education (CME) hours earned during the 12 months immediately preceding the expiration date of your license (a minimum of 24 hours per year, 12 formal and 12 informal, are required).
- Mail early to avoid delay in receipt of your updated annual registration permit.
- Although there are no penalty fees until 30 days following the expiration date of your license, please note that practicing without a current permit is the same as practicing without a license.

As you may recall, physicians may now carry forward excess CME hours for up to two years beyond the annual registration period during which the hours were earned, so it is very important to report the correct number of hours. A maximum of 48 excess hours in both formal and informal activities may be carried forward over a two-year period, as long as they were earned during the 12 months preceding your expiration date. (Note: This rule was effective December 12, 1996; therefore, hours earned prior to that date are not eligible for carryover.)

Beginning with your 1999 license renewal, at least one of the 12 formal CME hours must be obtained in the subject area of medical ethics and/or professional responsibility. This hour must be completed during your renewal period, which is the 12 months prior to your expiration date. Excess hours earned in ethics may be carried over for up to two years. Whether a particular hour of CME involves the study of ethics and/or professional responsibility will be determined by the accredited CME sponsor of the activity.

The board processes approximately 12,000 annual registration payments per quarter, so please help us by paying close attention when you make your

annual registration payment. If you have questions regarding annual registration or continuing medical education, please contact the board at (512) 305-7020.

### **TxDot Information on Disabled Person License Plates**

The 75th Texas Legislature passed House Bill 580, which created changes in procedures for obtaining disabled person license plates and/or placards, as follows:

Effective September 1, 1997, the initial application for issuance of disabled person identification placards or license plates requires a notarized signature of a physician licensed to practice in Texas or a written original prescription from the licensed physician signing the Application Form for Disabled Person License Plates and/or Placards, Form #VTR-214, to accompany the VTR-214 Form. If an old Form VTR-214 (non-notarized) application is submitted for a physician's signature, the physician should sign the non-notarized Form VTR-214 and attach a written prescription for the disabled person to the Form VTR-214. The written prescription must contain the disabled person's name and a statement indicating that the disability is either temporary or permanent. In order to determine if a disability qualifies a patient for disabled person plates and/or placards, the definitions of qualifying disabilities are now shown on the back of the revised Form VTR-214.

### **Board Amends Policy on Unlicensed Practice**

At its September 18-20, 1997, meeting, the Board voted to amend its policy on Unlicensed Practice to bring it into compliance with SB 384 and with the Texas Insurance Code (Utilization Review Act, Article 21.58A). Section 4(h) states:

Utilization review conducted by a utilization review agent shall be under the direction of a physician licensed to practice medicine by a state licensing agency in the United States.

SB 384, as originally introduced, amended section 4(h) to require that utilization review be done by a physician licensed to practice in Texas. However, subsequent amendments removed that requirement.

The board's policy statement on Unlicensed Practice was amended to include this final sentence: "this statement shall not be interpreted to prohibit utilization review as authorized by and defined by state law." To contact the Texas Department of Insurance, the agency with oversight of utilization review, call (800) 578-4677.

The entire amended Unlicensed Practice policy follows:

POSITION STATEMENT:

## UNLICENSED PRACTICE

Adopted October 5, 1996; amended September 20, 1997

During the course of rulemaking related to nonprofit health organizations and telemedicine, as well as during its day-to-day regulatory activities, the Texas State Board of Medical Examiners has received comments and evidence on the adverse impact and potential harm to patients resulting from the influence of unlicensed individuals on the medical decision-making process of Texas physicians. Prompted by concerns raised in this regard, and in an effort to protect patients by preserving the independent medical judgment of physicians, the Texas State Board of Medical Examiners has chosen to issue this position statement.

It is the position of the Texas State Board of Medical Examiners, consistent with the provisions of section 3.06(i) of the Medical Practice Act, that the determination of medical necessity or appropriateness of proposed care so as to effect the diagnosis or treatment of a patient is the practice of medicine. To engage in the determination of medical necessity or appropriateness of an evaluation or care so as to effect the diagnosis or treatment of a patient in Texas requires a Texas medical license. Consistent with section 3.06(i) of the Medical Practice Act, the Texas State Board of Medical Examiners recognizes that a person physically located in another jurisdiction who, through any medium, performs an act that is part of a patient service initiated in this state and that would effect the diagnosis or treatment of a patient is also engaged in the practice of medicine so as to require a Texas medical license.

An individual or entity which makes a determination of medical necessity or appropriateness of any medical evaluation or care so as to effect the diagnosis or treatment of a patient in Texas, and who does not possess a Texas medical license or other authorization to practice medicine in this State, shall be subject to referral for further investigation, criminal prosecution, injunctive action, and the possible imposition of monetary penalties. A person who practices medicine in Texas without a license or permit so as to cause financial, physical, or psychological harm shall be subject to prosecution for a third degree felony as provided for in section 3.07 of the Medical Practice Act.

The exercise of decision-making authority over the need for or appropriateness of a medical evaluation or care so as to effect diagnosis or treatment is the practice of medicine. Consequently, such activity requires a Texas medical license. This requirement applies to those individuals and entities, both inside and outside the State of Texas, who engage in determining the need or appropriateness of any medical evaluation or care in regard to a Texas patient. Participants in such misconduct will be referred for criminal prosecution, civil action, and when available, disciplinary action. Licensed Texas physicians are encouraged to report the unlicensed practice of medicine. To avoid a violation of the law regarding unlicensed practice, reviewers, insurers, medical directors, and managed care gatekeepers should all be particularly conscientious in allowing physician providers to exercise independent medical judgment to the greatest extent possible. This statement shall not be interpreted to prohibit utilization review as authorized by and defined by state law.

