

## **Texas Medical Board Press Release**

### **FOR IMMEDIATE RELEASE**

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### **TMB disciplines 54 physicians at December meeting, adopts rule changes**

At its December 3-4, 2015 meeting, the Texas Medical Board disciplined 54 licensed physicians and issued two cease and desist orders. The disciplinary actions included: ten orders related to quality of care violations, three orders related to unprofessional conduct, five revocations, eight voluntary surrenders, five suspensions, three orders related to other states' actions, four orders related to peer review actions, three orders related to impairment, nine orders related to violation of prior Board order, one order related to advertising violations, and three orders related to inadequate medical records.

The Board issued 137 physician licenses at the December meeting, bringing the total number of physician licenses issued in FY16 to 800.

### **RULE CHANGES ADOPTED**

#### **CHAPTER 163. LICENSURE**

##### **§163.1, Definitions**

The amendments to 163.1, relating to Definitions, added definitions for "Active Duty" and "Armed Forces of the United States" and amends definitions for "Military service member" "Military spouse" and "military veteran." These amendments are in accordance with the passage of SB1307 (84th Reg. Session) which amended Chapter 55 of the Tex. Occ. Code.

##### **§163.2, Full Texas Medical License**

The amendments to 163.2, relating to Full Texas Medical License, adds language to 163.2(d), expanding subsection (d), Alternative Licensing Procedure, to include military service members and military veterans. The amendment also includes language allowing the executive director to waive any prerequisite to obtaining a license for an applicant described by subsection (d)(1) after reviewing the applicant's credentials. These amendments are in accordance with the passage of SB1307 (84th Reg. Session) which amended Chapter 55 of the Tex. Occ. Code.

#### **CHAPTER 165. MEDICAL RECORDS**

##### **§165.6, Medical Records Regarding an Abortion on an Unemancipated Minor**

The amendments to 165.6, relating to Medical Records Regarding an Abortion on an Unemancipated Minor, are adopted in accordance with House Bill 3994, enacted by the 84th Legislature. The amendment to §165.6 changes language in subsection (b)(4) so that a physician who performs an abortion on an unemancipated minor during a medical emergency is required to execute an affidavit explaining the specific nature of the medical emergency that necessitated the immediate abortion and include a copy of the affidavit in the minor patient's file. Other language under subsection (b)(4) is deleted, as it was made redundant by HB 3994's changes. Further, language is added to subsection (c) requiring a physician's duty to maintain in the minor's medical record a return receipt of the required written notice from the physician who performed an abortion on the minor under emergency circumstances without the opportunity to obtain consent, to the parents or guardians of the minor. The amendments to subsection (c) also require that if the notice was delivered "undeliverable", the physician is required to maintain a copy of the notice itself. Finally, physician to show due diligence in determining any woman on whom the physician performs an abortion has reached the age of

majority or has had the disabilities of a minority removed, and establishes the requirements of showing "due diligence", tracking the language of HB 3994.

## **CHAPTER 166. PHYSICIAN REGISTRATION**

### **§166.1, Physician Registration**

The amendment to 166.1, relating to Physician Registration, adds new subsection (h) providing that military service members who hold a license to practice in Texas are entitled to two years of additional time to complete any other requirement related to the renewal of the military service member's license. This amendment is in accordance with the passage of SB1307 (84th Reg. Session) which amended Chapter 55 of the Tex. Occ. Code.

### **§166.2, Continuing Medical Education**

The amendment to 166.2, relating to Continuing Medical Education, adds new subsection (p) providing that a physician, who is a military service member, may request an extension of time, not to exceed two years, to complete any continuing medical education requirements. This amendment is in accordance with the passage of SB1307 (84th Reg. Session) which amended Chapter 55 of the Tex. Occ. Code.

## **CHAPTER 171. POSTGRADUATE TRAINING PERMITS**

### **§171.5, Duties of PIT Holders to Report**

The amendment to 171.5, relating to Duties of PIT Holders to Report, amends section (b)(3) by eliminating the word "could." This amendment is necessary to align the rule with the PIT application questions relating to impairment.

## **CHAPTER 172. TEMPORARY AND LIMITED LICENSES**

### **§172.5, Visiting Physician Temporary Permit**

The amendments to 172.5, relating to Visiting Physician Temporary Permit, adds language to subsection (a)(2) by requiring an applicant for such permit to have an active medical license in another state, territory, Canadian province, or country and mandates that such license may not be under investigation. Subsections (a)(2) and (b)(1) are further amended to provide that a supervising physician for any Visiting Physician Permit holder may not have an investigation or proceeding pending for the restriction, cancellation, suspension, revocation, or other discipline of the supervising physician's medical license, permit, or authority to practice medicine. These amendments will ensure that a Visiting Physician Temporary Permit holder has demonstrated the qualifications for licensure in another state, territory, Canadian province, or country and is not the subject of an investigation or subject to any disciplinary order. These amendments also ensure that a Visiting Physician Temporary Permit holder will have adequate and competent oversight of a supervising physician that is not the subject of any pending investigation.

## **CHAPTER 175. FEES AND PENALTIES**

### **§175.3, Penalties**

The amendment to 175.3, relating to Penalties, adds new subsection (7) providing that a Military Service Member is exempt from any penalty for failing to renew the license in a timely manner if the individual establishes that such failure to timely renew was because the individual was serving as a military service member. This amendment is in accordance with the passage of SB1307 (84th Reg. Session) which amended Chapter 55 of the Tex. Occ. Code.

### **§175.4, Fee Exemption for Military Service Member, Military Veteran, or Military Spouse**

New section 175.4 is added to Chapter 175, relating to Fee Exemption for Military Service Member, Military Veteran, or Military Spouse, thereby exempting Military Service Members, Military Veterans and Military Spouses from license application fees. This amendment is in accordance with the passage of SB807 (84th Reg. Session) which amended Chapter 55 of the Tex. Occ. Code.

## **CHAPTER 178. COMPLAINTS**

### **§178.3, Complaint Procedure Notification**

The amendment to 178.3, relating to Complaint Procedure Notification, corrects an incorrect reference to the Health and Safety Code in subsection (a)(2). This amendment is necessary in order to have clear and accurate citations in the rule.

## **CHAPTER 183. ACUPUNCTURE**

### **§183.25, Inactive Status License**

New section 183.25, is added to Chapter 183, relating to Inactive Status License, governs the creation of an inactive status license for acupuncture license holders with a current registration permit and license in good standing.

### **§183.26, Retired License**

New section 183.26, is added to Chapter 183, relating to Retired License, governs the creation of a retired license status for acupuncture license holders who meet certain requirements.

### **§183.14, Acudetox Specialist**

The amendments to 183.14, relating to Acudetox Specialist, adds language in Section (b)(4) to clarify that an Acudetox Specialist shall work under the supervision of a current and active licensed Texas physician or licensed Texas acupuncturist and such supervision shall be registered with the board and updated within 30 days of any change in such supervision. The amendment further clarifies that the Acudetox Specialist shall work pursuant to protocols developed by the Acudetox Specialist and supervising physician or acupuncturist and such protocols shall be agreed upon and signed by the supervising licensee and the acudetox specialist, reviewed and signed at least annually and maintained on site. Section (j)(3) is also amended to eliminate an incorrect amount related to fees. These amendments clarify the existing rule requirements and provide guidance for compliance.

## **CHAPTER 184. SURGICAL ASSISTANTS**

### **§184.2, Definitions**

The amendments to 184.2, relating to Definitions, added definitions for “Active Duty” and “Armed Forces of the United States” and amends definitions for “Military service member” “Military spouse” and “military veteran.” These amendments are in accordance with the passage of SB1307 (84th Reg. Session) which amended Chapter 55 of the Tex. Occ. Code.

### **§184.4, Qualifications for Licensure**

The amendments to 184.4, relating to Qualifications for Licensure, adds language to 184.4(c), expanding subsection (d), Alternative Licensing Procedure, to include military service members and military veterans. The amendment also includes language allowing the executive director to waive any prerequisite to obtaining a license for an applicant described by subsection (c)(1) after reviewing the applicant’s credentials. These amendments are in accordance with the passage of SB1307 (84th Reg. Session) which amended Chapter 55 of the Tex. Occ. Code.

### **§184.6, Licensure Documentation**

The amendment to 184.6, relating to Licensure Documentation, amends language in subsection (b)(3) to clarify the requirements for submitting examination verification to the board. This amendment clarifies the existing rule and provides guidance for applicants.

### **§184.8, License Renewal**

The amendment to 184.8, relating to License Renewal, adds new subsection (h) providing that military service members who hold a license to practice in Texas are entitled to two years of additional time to complete any other requirement related to the renewal of the military service member’s license. This amendment is in accordance with the passage of SB1307 (84th Reg. Session) which amended Chapter 55 of the Tex. Occ. Code.

### **§184.21, Impaired Surgical Assistants**

The amendment to 184.21, relating to Impaired Surgical Assistants, deletes subsection (b) referencing rehabilitation orders, and adds new language allowing the board to refer impaired surgical assistants to the Texas Physician Health Program. This amendment will ensure that the Board's rules are consistent with Board processes.

### **§184.25, Continuing Education**

The amendment to 184.25, relating to Continuing Education, adds new subsection (m) providing that a surgical assistant, who is a military service member, may request an extension of time, not to exceed two years, to complete any continuing education requirements. This amendment is in accordance with the passage of SB1307 (84th Reg. Session) which amended Chapter 55 of the Tex. Occ. Code.

## **CHAPTER 185. PHYSICIAN ASSISTANTS**

### **§185.2, Definitions**

The amendment to 185.2, relating to Definitions, changes the definition under paragraph (18) for "Presiding Officer" so as to comport with changes made to Texas Occupations Code §204.055 enacted by Senate Bill 622, 84th Legislature, Regular Session (2015).

### **§185.3, Meetings and Committees**

The amendment to 185.3, relating to Meetings and Committees, adds language to subsection (e) clarifying that the governor must appoint a physician assistant member of the Physician Assistant Board, so as to comport with changes made to Texas Occupations Code §204.055 enacted by Senate Bill 622, 84th Legislature, Regular Session (2015).

### **§185.4, Procedural Rules for Licensure Applicants**

The amendment to 185.4, relating to Procedural Rules for Licensure Applicants, deletes subsection (c) and re-letters subsection (d) to (c). The amendments further add new subsection (d), outlining the process related to a determination of licensure ineligibility by the board, and clarifying that the procedures outlined under Chapter 187 of this title (relating to Procedural Rules) concerning determinations of licensure ineligibility apply.

## **CHAPTER 187. PROCEDURAL RULES**

### **§187.35, Presentation of Proposal for Decision**

The amendments to 187.35, relating to Presentation of Proposal for Decision, revise subsection (a)'s provisions related to notice requirements, to comport with changes made to the Administrative Procedure Act by SB 1267, 84th Legislature, R.S. (2015).

### **§187.37, Final Decision and Orders**

The amendments to §187.37, relating to Final Decisions and Orders, revise provisions related to notice and deadline requirements in order to comport with changes made to the Administrative Procedure Act by SB 1267, 84th Leg., R.S. (2015).

### **§187.38, Motions for Rehearing**

The amendments to 187.38, relating to Motions for Rehearing, revise provisions related to notice and deadline requirements in order to comport with changes made to the Administrative Procedure Act by SB 1267, 84th Leg., R.S. (2015).

### **§187.61, Ancillary Proceeding**

The amendments to 187.61, relating to Ancillary Proceeding, clarify the Medical Board meets the exception in §2001.054(c-1) of Texas Government Code related to filing requirements for certain proceedings.

### **§187.86, Scope**

The amendments to 187.86, relating to Scope, revise language in order to correct a reference to the title of 28 TAC §21.5010.

### **§187.87, Definitions**

The amendments to 187.87, relating to Definitions, revise definitions for a facility-based physician to include an assistant surgeon, in accordance with changes made by SB 481, 84th Legislature, R.S. (2015). Other changes are made to correct references to the title of 28 TAC §21.5010.

### **§187.88, Complaint Process and Resolution**

The amendment to 187.88, relating to Complaint Process and Resolution, represents general cleanup to the rule.

### **§187.89, Notice of Availability of Mandatory Mediation**

The amendments to 187.89, relating to Notice of Availability of Mandatory Mediation, revises language related to the notice required in a billing statement for certain facility-based physicians, in accordance with changes made by SB 481 84th Legislature, Regular Session (2015).

## **CHAPTER 189. COMPLIANCE PROGRAM**

### **§189.16, Monitoring, Proctoring, or Supervising Physician/Professional's Recommendation for Competency Assessment**

New 189.16, concerning Monitoring, Proctoring, or Supervising Physician/Professional's Recommendation for Competency Assessment. The new rule provides that a monitoring, proctoring, or supervising physician/professional ("monitor") may recommend that a probationer complete a competency evaluation, requires that such a recommendation be reviewed and approved by the Disciplinary Process and Review Committee (DPRC) prior to enforcing the recommendation, and sets forth a process that will apply in the cases in which the DPRC Chair approves such a recommendation. The rule provides that the Board may take further appropriate action based upon the results of the competency evaluation or the probationer's failure to comply with procedures related to the competency evaluation.

## **CHAPTER 195. PAIN MANAGEMENT CLINICS**

### **§195.1, Definitions**

The amendment to 195.1, relating to Definitions, is adopted in accordance with SB 1235, enacted by the 84th Texas Legislature. The amendment adds new paragraph (4), inserting the definition of "Operator" from SB 1235. This addition was to insure consistency between the rule and statute.

### **§195.2, Certification of Pain Management Clinics**

The amendment to 195.2(a)(5), relating to Certification of Pain Management Clinics, is adopted in accordance with SB 1235, enacted by the 84th Texas Legislature. This amendment adds new subparagraph (C), stating violations of §§195 et al. and Chapter 168 of the Texas Occupations Code are subject to criminal prosecution, to be consistent with a similar provision in SB 1235. The amendment further adds language to §195.2(f) so that the practice of medicine includes but is not limited to all supervision and delegation activities related to the pain management clinic. The amendments to §195.2 are added to achieve consistency with SB 1235.

## **CHAPTER 197. EMERGENCY MEDICAL SERVICE**

### **§197.1, Purpose; §197.2, Definitions; §197.7, Physician Supervision of Emergency Medical Technician-Paramedic or Licensed Paramedic Care Provided in a Health Care Facility Setting**

The amendments to 197.1, concerning Purpose; and 197.2, concerning Definitions; and new 197.7, concerning Physician Supervision of Emergency Medical Technician-Paramedic or Licensed Paramedic Care Provided in a Health Care Facility Setting. The sections are adopted in accordance with House Bill 2020, enacted by the 84th Legislature, which amended Chapter 773 of the Health and Safety Code so that certified emergency medical technician paramedics (EMT-Ps) and licensed paramedics (LPs) are authorized to provide advanced life support in a health care facility's emergency or urgent care clinical setting under the direct supervision of a licensed physician.

The amendments to 197.1 reorganize the section and make other general "clean-up" changes to the language.

The amendments to 197.2 reflect general "clean-up" changes to the language.

New 197.7 sets forth language reflecting the substantive changes to the law made by HB 2020. The new section sets forth definitions and the scope of allowed practice by EMT-Ps and LPs in a health care facility setting under a physician's direct supervision and delegated authority, as permitted by HB 2020 and other law, and provides for the scope of a physician's responsibility for such acts.

## **CHAPTER 198. STANDARDS FOR USE OF INVESTIGATIONAL AGENTS**

### **§198.1, Purpose**

The amendment to 198.1, relating to Purpose, is adopted in accordance with House Bills 177 and 21, enacted by the 84th Texas Legislature. The amendment to 198.1 adds language stating that specific requirements set forth under new 198.4 are applicable only to terminal patients being treated with investigational agents.

### **§198.3, Practice Guidelines for the Use of Investigational Agents**

The amendment to 198.3, relating to Practice Guidelines for the Use of Investigational Agents, is adopted in accordance with House Bills 177 and 21, enacted by the 84th Texas Legislature. The amendment to 198.3 replaces the term "protocol" with the term "clinical trial." This was to insure consistency between the language in HB 177 and the rule.

### **§198.4, Use of Investigational Agents for Patients with Terminal Illness**

The amendment to 198.4, relating to Use of Investigational Agents for Patients with Terminal Illness, is adopted in accordance with House Bills 177 and 21, enacted by the 84th Texas Legislature. The language in new 198.4 reflects the requirements of HB 21 and makes clear that new 198.4 is limited to use of investigational agents by terminal patients

## **CHAPTER 200. STANDARDS FOR PHYSICIANS PRACTICING COMPLEMENTARY AND ALTERNATIVE MEDICINE**

### **§200.3(7), Practice Guidelines for the Provision of Complementary and Alternative Medicine**

The amendments to 200.3(7), relating to Practice Guidelines for the Provision of Complementary and Alternative Medicine, revise the language under subparagraphs (A) - (C) so that the outlined ethical standards relating to physicians using conventional medical practices or complementary and alternative medicine treatment while engaged in the clinical investigation of new drugs and procedures are mandatory rather than discretionary. The changes are adopted to make consistent with other language in the introductory paragraph of the section making such ethical standards mandatory.

## **DISCIPLINARY ACTIONS**

### **QUALITY OF CARE**

#### **Berio-Muniz, Rafael Lionel, M.D., Lic. No. M3909, Corpus Christi**

On December 4, 2015, the Board and Rafael Lionel Berio-Muniz, M.D., entered into an Agreed Order requiring Dr. Berio-Muniz to within one year complete at least 24 hours of CME, divided as follows: eight hours in medical recordkeeping, eight hours in EKG interpretation and eight hours in physician-patient communication; and within 60 days pay an administrative penalty of \$3,000. The Board found Dr. Berio-Muniz failed to impress upon a patient the urgency of going to the hospital, failed to correctly note the ECG findings of Myocardial Infarction (MI) in the patient's record, failed to diagnose the patient within the medical record with "inferior and posterior MI," probably recent, and failed to diagnose acute congested heart failure in the recent setting of a MI.

#### **Fain, Harold Hubbard, Jr., M.D., Lic. No. F6612, Fort Worth**

On December 4, 2015, the Board and Harold Hubbard Fain, Jr., M.D., entered into an Agreed Order requiring Dr. Fain to have his practice monitored by another physician for 8 consecutive monitoring cycles; within one year complete at least

24 hours of CME, divided as follows: 16 hours in family practice and diagnosis and eight hours in risk management; and within 60 days pay an administrative penalty of \$3,000. The Board found Dr. Fain failed to recognize and work up several years of abnormal laboratory results showing an elevated total protein level and low albumin level and failed to demonstrate that he had implemented a plan to address the abnormalities.

**Hawkins, William Noel, M.D., Lic. No. J4850, Beaumont**

On December 4, 2015, the Board and William Noel Hawkins, M.D., entered into an Agreed Order requiring Dr. Hawkins to have his practice monitored by another physician for 12 consecutive monitoring cycles; and within one year complete at least 16 hours of in-person CME, divided as follows: four hours in providing proper informed consent and eight hours in obstetrics and/or gynecology. The Board found Dr. Hawkins failed to meet the standard of care for three patients. Specifically, Dr. Hawkins failed to diagnose and treat one patient for appendicitis, failed to perform a tubal ligation procedure as discussed with a patient, failed to diagnose a patient's syphilis infection and failed to document prenatal testing orders and results for the patient. Dr. Hawkins' treatment for the three patients resulted in the patients filing malpractice claims against him. Additionally, Dr. Hawkins settled three other claims for \$50,000 or more in the last five years.

**Hohlt, Russell Wade, M.D., Lic. No. N3734, Victoria**

On December 4, 2015, the Board and Russell Wade Hohlt, M.D., entered into an Agreed Order to within one year complete at least eight hours of CME, divided as follows: four hours in assessment of acute chest pain and four hours in risk assessment of acute abdominal pain. The Board found Dr. Hohlt breached the standard of care by failing to perform a complete workup of a patient's initial complaint of abdominal pain, including ordering some type of diagnostic radiological study.

**Kelehan, Shaun Bobbie, M.D., Lic. No. L6234, Marshall**

On December 4, 2015, the Board and Shaun Bobbi Kelehan, M.D., entered into an Agreed Order requiring Dr. Kelehan to have his practice monitored by another physician for a eight consecutive monitoring cycles; within one year and three attempts pass the Medical Jurisprudence Exam; within one year complete at least 20 hours of CME, divided as follows: eight hours in risk management, eight hours in treating patients with diabetes and four hours in protecting human research participants. The Board found Dr. Kelehan failed to provide adequate oversight of a patient's progress and diabetic condition who was participating in an insulin clinical trial. Although the patient was counseled to communicate any medical problems experienced, Dr. Kelehan should have also counseled the patient to communicate low blood sugar levels, regardless of whether the patient experienced related symptoms. Dr. Kelehan admitted that at the time of the patient's death, he was not enrolled in the Texas Electronic Death Registry system as required, and therefore did not utilize the system to file and/or certify the patient's death certificate.

**Leal, Ramiro, M.D., Lic. No. L2979, McAllen**

On December 4, 2015, the Board and Ramiro Leal, M.D., entered into an Agreed Order requiring Dr. Leal to within one year complete at least 24 hours of CME, divided as follows: eight hours in medical recordkeeping, eight hours in risk management and eight hours in Obstetrics/Gynecology (with four hours focusing on the emergent, high acuity cases). The Board found Dr. Leal failed to timely treat the patient's intra-abdominal bleeding. The patient's demise was the result of a total system failure at the hospital that mitigated and reduced Dr. Leal's responsibility for the failures to an extent.

**Linan, Luis Enrique, M.D., Lic. No. H8214, El Paso**

On December 4, 2015, the Board and Luis Enrique Linan, M.D., entered into an Agreed Order requiring Dr. Linan to within one year complete at least 16 hours of CME, divided as follows: four hours in patient communications, four hours in risk management and eight hours in medical recordkeeping. The Board found that there was a lack of documentation in the medical record related to Dr. Linan's counseling of a patient as to the severity of her condition and need for quick evaluation and treatment.

**Matus, Jose Antonio, M.D., Lic. No. J9197, Sherman**

On December 4, 2015, the Board and Jose Antonio Matus, M.D., entered into an Agreed Order requiring Dr. Matus to have his practice monitored by another physician for eight consecutive monitoring cycles; within one year complete the

KSTAR Medical Recordkeeping Course or Program offered by the Texas A&M Health Science Center; and within 60 days pay an administrative penalty of \$2,000. The Board found Dr. Matus failed to adequately monitor one patient's acetaminophen level; failed to follow the Board's guidelines for the treatment of chronic pain with respect to 13 patients; failed to maintain adequate medical records; failed to fully discuss indications, risks, benefits, and options for treatment; failed to document his rationale or a contingency plan for treatment of a patient's chronic bilateral hematomas and failed to respond to the patient's concerns; failed to refer the patient to a neurosurgeon immediately upon learning of the chronic subdural hematomas; failed to communicate the results of a CT scan to the patient in a timely manner; and failed to document that he discussed with the patient what symptoms to monitor and what emergency steps to take should the symptoms occur.

**Parra, Rafael, M.D., Lic. No. E4040, San Antonio**

On December 4, 2015, the Board and Rafael Parra, M.D., entered into an Agreed Order requiring Dr. Parra to within one year complete at least 16 hours of CME, divided as follows: eight hours in patient-physician communication and eight hours in medical recordkeeping. The Board found Dr. Parra failed to exercise due diligence and failed to safeguard against potential complications following an operative procedure due to lack of documentation of his instructions to a patient which likely contributed to the patient being discharged from the hospital without consulting with Dr. Parra.

**Springer, Terry Wayne, M.D., Lic. No. G8434, Haltom City**

On December 4, 2015, the Board and Terry Wayne Springer, M.D., entered into an Agreed Order that requires Dr. Springer to within one year complete at least eight hours of CME, divided as follows: four hours in risk management and four hours in treatment of abdominal emergencies. The Board found Dr. Springer treated a patient for a possible kidney infection without further examination of the abdomen. Dr. Springer should have immediately ordered a CT scan to rule out other abdominal conditions given the patient's symptoms.

**UNPROFESSIONAL CONDUCT**

**Atef-Zafarmand, Alireza, M.D., Lic. No. M5617, Dallas**

On December 4, 2015, the Board and Alireza Atef-Zafarmand, M.D., entered into an Agreed Order on Formal Filing revoking Dr. Atef-Zafarmand's Texas medical license, staying the revocation and placing Dr. Atef-Zafarmand on probation under the following terms and conditions: restricting his license to the practice of administrative medicine as defined by Board rules; shall not engage in the clinical practice of medicine or act in any capacity that involves direct or indirect patient contact; may not possess authority to order, deliver, possess or prescribe controlled substances while under this restriction; may not petition the Board for modification of the restriction to administrative medicine for a minimum of one year; and prior to seeking any modification of this Order undergo an independent medical evaluation by an evaluating psychiatrist and follow any recommendations for care and treatment. The Board found Dr. Atef-Zafarmand engaged in a pattern of inappropriate conduct with a patient, peers, hospital staff and the public. This order resolves a formal complaint filed at the State Office of Administrative Hearings. This order supersedes the Order of Temporary Suspension entered on June 21, 2013.

**Giacona, Jewell Annette, M.D., Lic. No. H8073, Baytown**

On December 4, 2015, the Board and Jewell Annette Giacona, M.D., entered into an Agreed Order publicly reprimanding Dr. Giacona and requiring her to within 60 days comply with the Board subpoena and document request; within one year and three attempts pass the Medical Jurisprudence Exam; within one year complete at least eight hours of CME in ethics; and within 90 days pay an administrative penalty of \$5,000. The Board found Dr. Giacona failed to respond to a Board subpoena and request for information for a pending Board investigation and did not appear at a scheduled Informal Settlement Conference.

**Motlagh, James R., M.D., Lic. No. L4071, Tyler**

On December 4, 2015, the Board and James R. Motlagh, M.D., entered into an Agreed Order requiring Dr. Motlagh to within one year and three attempts pass the Medical Jurisprudence Exam; within one year complete at least 24 hours of CME, divided as follows: eight hours in risk management, to include HIPAA, eight hours in patient communication and eight hours in ethics; and within 60 days pay an administrative penalty of \$1,000. The Board found Dr. Motlagh breached



doctor/patient confidentiality with one patient by taking photographs and video of the patient during a procedure and subsequently posting them on social media without consent.

## **REVOCATION**

### **Ly, Keith K., D.O., Lic. No. P0086, Worthington, OH**

On December 4, 2015, the Board and Keith K. Ly, D.O., entered into an Agreed Order of Voluntary Revocation in which Dr. Ly agreed to the revocation of his Texas medical license in lieu of further disciplinary proceedings. The Board found Dr. Ly was issued an Ex Parte Order of Summary Action by the State of Washington Department of Health Board of Osteopathic Medicine and Surgery that suspended his Washington medical license due to Dr. Ly being convicted of 10 felonies.

### **Megwa, Joseph M., M.D., Lic. No. M0176, Arlington**

On December 3, 2015, the Board entered a Final Order against Joseph M. Megwa, M.D., which revoked his Texas medical license. The Board found Dr. Megwa was found guilty of the felony offenses of one count of Conspiracy to Commit Healthcare Fraud, three counts of Healthcare Fraud, and four counts of False Statements Relating to Healthcare Matters. He was sentenced to 120 months in prison beginning on January 22, 2015. Dr. Megwa did not respond to a the Board's motion for summary disposition or offer any summary disposition evidence and the record closed on July 30, 2015 when the administrative law judge granted summary disposition to Board staff. This order resolves a formal complaint filed at the State Office of Administrative Hearings. Dr. Megwa has 20 days from the service of the order to file a motion for rehearing.

### **O'Neal, Don Martin, M.D., Lic. No. E2769, Sulphur Springs**

On December 3, 2015, the Board entered a Final Order against Don Martin O'Neal, M.D., which revoked his Texas medical license. The Board found Dr. O'Neal entered a guilty plea to the criminal charge of theft of property, an enhanced state jail felony and was placed on community supervision for eight years, and ordered to pay the Health and Human Services Commission \$42,048.25, imposing a \$5,000 fine, and directing Dr. O'Neal to pay court costs of \$531. The action was based on the findings of an administrative law judge at the State Office of Administrative Hearings. This order resolves a formal complaint filed at the State Office of Administrative Hearings. Dr. O'Neal has 20 days from the service of the order to file a motion for rehearing.

### **Ramirez, Roque J., M.D., Lic. No. K4201, Corpus Christi**

On December 3, 2015, the Board entered a Final Order against Roque J. Ramirez, M.D., which revoked his Texas medical license. The Board found Dr. Ramirez pleaded guilty to one felony count of mail fraud and was sentenced to serve 37 months in a federal prison, and upon release from prison, to serve three years of supervised release, pay a \$10,000 fine, and pay restitution of \$370,638.28 to Medicare and Medicaid. Dr. Ramirez is currently incarcerated and did not file a response to the Board's Motion for Summary Disposition which was then granted by the administrative law judge. This order resolves a formal complaint filed at the State Office of Administrative Hearings. Dr. Ramirez has 20 days from the service of the order to file a motion for rehearing.

### **Sarabosing, Luciano Jo, Jr., M.D., Lic. No. J7177, Victoria**

On December 4, 2015, the Board and Luciano Jo Sarabosing, Jr., M.D., entered into an Agreed Order of Revocation in which Dr. Sarabosing agreed to the revocation of his Texas medical license in lieu of further disciplinary proceedings. The Board found Dr. Sarabosing is not in compliance with the terms of his April 2015 Order due to his attendance to urgent family matters in his native country of the Philippines. Dr. Sarabosing is unsure of when his family's situation will improve to allow him to return to the United States and has requested the revocation of his license be accepted in lieu of him completing the terms of his Board order, and any further disciplinary proceedings.

## **VOLUNTARY SURRENDER**

### **Armstrong, Jennifer, M.D., Lic. No. F1345, Ottawa, Ontario, Canada**

On December 4, 2015, the Board and Jennifer Armstrong, M.D., entered into an Agreed Voluntary Surrender Order in which Dr. Armstrong agreed to voluntarily surrender her Texas medical license in lieu of further disciplinary proceedings.

Dr. Armstrong was under investigation by the Board after being notified that the College of Physicians and Surgeons of Ontario on December 15, 2014, had taken disciplinary action against Dr. Armstrong.

**Brown, Forrest Carroll, M.D., Lic. No. D3169, Dallas**

On December 4, 2015, the Board and Forrest Carroll Brown, M.D., entered into an Agreed Order of Voluntary and Permanent Surrender in which Dr. Brown agreed to voluntarily surrender his Texas medical license in lieu of further disciplinary proceedings. Dr. Brown has reported to the Board that he suffers from a medical condition that precludes him from practicing medicine.

**Gannon, Michael John, M.D., Lic. No. F1024, Houston**

On December 4, 2015, the Board and Michael John Gannon, M.D., entered into an Agreed Order of Voluntary Surrender in which Dr. Gannon agreed to voluntarily surrender his Texas medical license in lieu of further disciplinary proceedings. The Board found that Dr. Gannon has a physical impairment that prevents him from safely practicing medicine.

**Kloss, William Henry, M.D., Lic. No. F6829, New Braunfels**

On December 4, 2015, the Board and William Henry Kloss, M.D., entered into an Agreed Order of Voluntary and Permanent Surrender in which Dr. Kloss agreed to voluntarily surrender his Texas medical license in lieu of further disciplinary proceedings. Dr. Kloss was under investigation by the Board regarding allegations pertaining to his arrest and charge of aggravated assault. Dr. Kloss has indicated his desire to cease practicing medicine.

**Mazumdar, Nirmal Kumar, M.D., Lic. No. F2794, Houston**

On December 4, 2015, the Board and Nirmal Kumar Mazumdar, M.D., entered into an Agreed Voluntary Surrender Order in which Dr. Mazumdar agreed to voluntarily surrender his Texas medical license in lieu of further disciplinary proceedings. Dr. Mazumdar was under investigation by the Board for his federal indictment on allegations related to Medicare fraud and is scheduled to stand trial in January of 2016. Dr. Mazumdar is not actively practicing and would like to retire.

**Pinson, Barbara Morgan, M.D., Lic. No. H8327, Quitman**

On December 4, 2015, the Board and Barbara Morgan Pinson, M.D., entered into an Agreed Voluntary Surrender Order in which Dr. Pinson agreed to voluntarily surrender her Texas medical license in lieu of further disciplinary proceedings. The Board received information that Dr. Pinson is unable to practice medicine with reasonable skill and safety to patients because of illness or as a result of a mental or physical condition and that Dr. Pinson has not practiced medicine since August 2014.

**Wulfsohn, Norman Leonard, M.D., Lic. No. D5502, San Antonio**

On December 4, 2015, the Board and Norman Leonard Wulfsohn, M.D., entered into an Agreed Order of Voluntary Surrender in which Dr. Wulfsohn agreed to voluntarily surrender his Texas medical license in lieu of further disciplinary proceedings. Dr. Wulfsohn was under investigation by the Board regarding allegations pertaining to his prescribing practices. Dr. Wulfsohn has indicated his desire to retire and cease practicing medicine.

**Zimmerman, Erika Irene, M.D., Lic. No. J6829, Houston**

On December 4, 2015, the Board and Erika Irene Zimmerman, M.D., entered into an Agreed Voluntary Surrender Order in which Dr. Zimmerman agreed to voluntarily surrender her Texas medical license in lieu of further disciplinary proceedings. The Board found Dr. Zimmerman failed to comply with her March 2015 Suspension Order, and issued prescriptions for controlled substances while suspended from practice; tested positive for numerous controlled substances for which she did not provide a prescription, including opioids and barbiturates; failed to maintain a current, accurate address with the Board and failed to respond to Board requests for information in a timely manner; and failed to notify the Board of medical conditions that began in 2013 and continue to preclude her from practicing medicine with reasonable skill and safety to patients.

## **SUSPENSION**

### **Brooks, Ralph Anthony, M.D., Lic. No. H3656, Fort Worth**

On December 4, 2015, the Board and Ralph Anthony Brooks, M.D., entered into an Agreed Order suspending Dr. Brooks' Texas medical license for one year from the date of entry of his September 30, 2015 Order of Temporary Suspension, after which Dr. Brooks may petition the Board in writing to have the suspension stayed or lifted and personally appear before the Board to provide clear and convincing evidence that he is physically, mentally, and otherwise competent to safely practice medicine. Further requiring Dr. Brooks to undergo an independent medical evaluation and follow all recommendations of care and treatment; and shall not be permitted to supervise or delegate prescriptive authority to any midlevel. The Board found Dr. Brooks is suffering from a mental illness that is adversely impacting his ability to competently and safely practice medicine. Dr. Brooks has been in treatment for mental health issue for 30 years, including several stays in inpatient facilities necessitating him to temporarily leave his practice, and has not previously disclosed this to the Board. Furthermore, Dr. Brooks has recently been arrested two times related to domestic violence issues.

### **Iglehart, Sharon L, M.D., Lic. No. H4832, Houston**

On December 4, 2015, the Board and Sharon L. Iglehart, M.D., entered into an Agreed Order of Suspension, suspending Dr. Iglehart's Texas medical license until such a time as a complete resolution occurs in her criminal case. Dr. Iglehart was found guilty of conspiracy to commit health care fraud, health care fraud, and false statements relating to health care matters and awaits her sentencing. Dr. Iglehart maintains her innocence on the criminal charges and plans to file an appeal of her conviction.

### **Merriman, Garrett, M.D., Lic. No. Q2929, El Paso**

On December 4, 2015, the Board and Garrett Merriman, M.D., entered into an Agreed Order of Suspension, suspending Dr. Merriman's Texas medical license for a period of no less than six months until such a time as he requests in writing to have the suspension stayed or lifted, and personally appears before the Board and provides evidence that he is physically, mentally, and otherwise competent to safely practice medicine. Dr. Merriman may not be permitted to supervise or delegate prescriptive authority to midlevels. The Board found Dr. Merriman has failed to comply with terms of his January 2015 Order by failing to abstain from prohibited substances as required. Dr. Merriman had indicated his desire to voluntarily suspend his Texas medical license in lieu of further disciplinary proceedings.

### **Rudd, Alexandria E., M.D., Lic. No. M8967, San Antonio**

On December 4, 2015, the Board and Alexandria E. Rudd, M.D., entered into an Agreed Order of Suspension, suspending Dr. Rudd's Texas medical license until such a time as she requests in writing to have the suspension stayed or lifted, and personally appears before the Board and provides evidence that she is physically, mentally, and otherwise competent to safely practice medicine. The Board found Dr. Rudd is unable to practice medicine with reasonable skill and safety to patients because of illness or as a result of any mental or physical condition.

### **Sofinowski, Richard Edward, M.D., Lic. No. J2347, Austin**

On December 4, 2015, the Board and Richard Edward Sofinowski, M.D., entered into an Agreed Order of Suspension, suspending Dr. Sofinowski's Texas medical license until such a time as he requests in writing to have the suspension stayed or lifted, and personally appears before the Board and provides evidence that he is physically, mentally, and otherwise competent to safely practice medicine. Evidence shall include at a minimum the complete and final resolution of any and all criminal charges and investigations currently pending, specifically regarding his arrest and subsequent indictment on one count of conspiracy to distribute controlled substances outside the scope of professional practice. Dr. Sofinowski is currently the subject of a formal complaint filed at the State Office of Administrative Hearings relating to the criminal charge. Dr. Sofinowski agreed to the voluntary suspension of his license rather than contest the charges pending at SOAH. This order resolves the formal complaint filed at SOAH.

## **OTHER STATES' ACTIONS**

### **Ashaye, Olurotimi Ayodele, M.D., Lic. No. K5062, Meridian, ID**

On December 4, 2015, the Board and Olurotimi Ayodele Ashaye, M.D., entered into an Agreed Order prohibiting Dr.

Ashaye from prescribing, administering, dispensing, ordering, writing orders for, or giving verbal orders for any opioids or controlled substances for pain for any patient for any purpose, except as follows: Dr. Ashaye shall be allowed to continue to prescribe Suboxone/Subutex narcotics solely for treatment of addiction, may prescribe for treatment of pain for patients in hospitals where he has privileges during the course of the patient's hospital stay and may write bridge prescriptions for patients upon discharge from the hospital which shall not exceed 15 days; and requiring Dr. Ashaye to comply with this order and any terms and conditions imposed by the Medical Board of Idaho. The Board found that on April 27, 2015, the Medical Board of Idaho disciplined Dr. Ashaye as the result of an investigation into Dr. Ashaye's care, treatment and prescribing of controlled substances to four patients.

**Cherry, Thomas Davies, M.D., Lic. No. D5933, Grand Lake, CO**

On December 4, 2015, the Board and Thomas Davies Cherry, M.D., entered into an Agreed Order publicly reprimanding Dr. Cherry. The Board found Dr. Cherry was disciplined by the Colorado Medical Board. Specifically, Dr. Cherry was sent a letter of admonition dated March 19, 2015.

**Khan, Toseef, M.D., Lic. No. M2366, Eden Prairie, MN**

On December 4, 2015, the Board and Toseef Khan, M.D., entered into an Agreed Order publicly reprimanding Dr. Khan. The Board found that on May 1, 2015, the Minnesota State Board of Physicians (MSBP) entered a Consent Order based on action taken by the Arizona Medical Board's (AMB) entry of an Order for Letter of Reprimand entered on February 5, 2015, based on Dr. Khan's self-reported malpractice settlement regarding the care and treatment of one patient. Specifically, Dr. Khan failed to properly interpret a patient's ultrasound examination.

**PEER REVIEW ACTIONS**

**Driggs, Shane Cash, M.D., Lic. No. L2227, Corpus Christi**

On December 4, 2015, the Board and Shane Cash Driggs, M.D., entered into an Agreed Order requiring Dr. Driggs to within 45 days undergo an evaluation by the Physician Health Program (PHP); within one year and three attempts pass the Medical Jurisprudence Exam; within one year complete at least 32 hours of CME, divided as follows: eight hours in prescribing controlled substances, eight hours in risk management, eight hours in ethics and eight hours in medical recordkeeping; and within 60 days pay an administrative penalty of \$2,000. The Board found Dr. Driggs inappropriately prescribed a controlled substance (hydrocodone) for his own personal use through a fictitious prescription written to a medical staff member and failed to maintain adequate medical records for his self-treatment of a reported physical condition. Dr. Driggs was disciplined by the peer review committee of a licensed health care facility, which he failed to report to the Board as required.

**Psyk, Andrew Michael, M.D., Lic. No. L1171, Houston**

On December 4, 2015, the Board and Andrew Michael Psyk, M.D., entered into an Agreed Order requiring Dr. Psyk to within one year complete at least four hours of CME in professionalism. The Board found Dr. Psyk voluntarily surrendered his practice privileges at Conroe Regional Medical Center the same day he was requested and refused to undergo a drug screen test.

**Spillers, Christopher Keith, M.D., Lic. No. L4838, Dallas**

On December 4, 2015, the Board and Christopher Keith Spillers, M.D., entered into an Agreed Order requiring Dr. Spillers to within one year and three attempts pass the Medical Jurisprudence Exam; comply with all requirements, restrictions, and limitations that have been imposed by any hospitals, nursing homes, treatment facilities, and other health care entities where Dr. Spillers has privileges; within one year complete at least 24 hours of CME, divided as follows: eight hours in risk management, eight hours in professionalism and eight hours in ethics. The Board found Dr. Spillers had been the subject of disciplinary action by his peers as a result of his improper use of a personal electronic device in the operating room during two procedures.

**Williams, Michael Duane, M.D., Lic. No. E2943, Amarillo**

On December 4, 2015, the Board and Michael Duane Williams, M.D., entered into an Agreed Order requiring Dr. Williams to have his practice monitored by another physician for eight consecutive monitoring cycles; within 30 days schedule an assessment with the Texas A&M Health Science Center Knowledge, Skills, Training, Assessment, and

Research (KSTAR) program; comply with all terms and conditions of the peer review agreement instituted by Northwest Texas Hospital; within one year complete at least 12 hours of CME, divided as follows: eight hours in high risk obstetrics cases and four hours in risk management; and within 60 days pay an administrative penalty of \$3,000. The Board found Dr. Williams failed to meet the standard of care for prenatal care and/or delivery for three obstetrical patients and consequently was subject to disciplinary actions by his peers.

## **IMPAIRMENT**

### **Ferguson, Donald William, II, M.D., Lic. No. L6039, Arlington**

On December 4, 2015, the Board and Donald William Ferguson, II, M.D., entered into an Agreed Order restricting Dr. Ferguson's Texas medical license to the practice of Administrative Medicine as defined in Board rules for one year. Dr. Ferguson is prohibited from engaging in the clinical practice of medicine or in any capacity that involves direct or indirect patient contact; further requiring Dr. Ferguson to abstain from the consumption of prohibited substances as defined in the Order for a period of seven years; participate in the Board's drug testing program for seven years; within 30 days undergo an independent medical evaluation and follow all recommendations for care and treatment; and within 180 days pay an administrative penalty of \$1,500. The Board found Dr. Ferguson violated his drug abstention agreement with the Board by testing positive for alcohol and methamphetamine.

### **[CORRECTED] Moon, Kelley Eileen, M.D., Lic. No. L4067, Nacogdoches**

On December 4, 2015, the Board and Kelley Eileen Moon, M.D., entered into an Agreed Order requiring Dr. Moon to within 30 days submit to an evaluation by the Physician Health Program (PHP) and comply with any and all recommendations. The Board found Dr. Moon pled guilty to Driving While Intoxicated (DWI) and misdemeanor Child Endangerment on February 4, 2005 and was found guilty of DWI Class A misdemeanor by jury trial in Nacogdoches County Court of Law on March 15, 2015.

### **Villarreal, Patricio Thomas, M.D., Lic. No. J0336, Pleasanton**

On December 4, 2015, the Board and Patricio Thomas Villarreal, M.D., entered into an Agreed Order requiring Dr. Villarreal to within 30 days undergo an evaluation by the Texas Physician Health Program (PHP) and follow any and all recommendations made by PHP; Dr. Villarreal shall limit his practice to a group or an institutional setting approved in advance by the Board; have his practice monitored by another physician for eight consecutive monitoring cycles; within one year and three attempts pass the Medical Jurisprudence Exam; within one year complete at least 32 hours of CME, divided as follows: eight hours in ethics, eight hours in medical recordkeeping, eight hours in risk management and eight hours in appropriate prescribing; and shall not be permitted to supervise or delegate prescriptive authority to midlevels. The Board found Dr. Villarreal diverted and abused medication from his office, reported himself to the Physician Health Program and signed a monitoring agreement, and admitted himself to an in-patient substance abuse treatment program.

## **VIOLATION OF PRIOR BOARD ORDER**

### **Aboud, Ambrose, M.D., Lic. No. F9119, El Paso**

On December 4, 2015, the Board and Ambrose Aboud, M.D., entered into an Agreed Order requiring Dr. Aboud to within one year complete at least eight hours of CME, divided as follows: four hours in risk management and four hours in professionalism; within six months present proof to the Board that he has completed all the remaining requirements of his 2014 Remedial Plan; and within 60 days pay an administrative penalty of \$1,000. The Board found Dr. Aboud failed to timely complete the requirements of his Remedial Plan.

### **Blahey, Maria Susan, M.D., Lic. No. G1816, Beaumont**

On December 4, 2015, the Board and Maria Susan Blahey, M.D., entered into an Agreed Order requiring Dr. Blahey to within 60 days pay an administrative penalty of \$1,500 and complete any and all continuing medical education required by the Remedial Plan for which she is deficient. The Board found Dr. Blahey did not complete the CME required by her May 2014 Remedial Plan within the prescribed deadline.

**Medina, Marelyn, M.D., Lic. No. J9759, McAllen**

On December 4, 2015, the Board and Marelyn Medina, M.D., entered into an Agreed Order requiring Dr. Medina to within 60 days pay an administrative penalty of \$1,000 and appear before the Board for the purpose of addressing issues related to her compliance with the terms and conditions of her 2014 Order. The Board found Dr. Medina is in violation of her 2014 Order by failing to cooperate with Board staff because she had refused to reply to emails sent to her by her Compliance Officer on multiple occasions.

**Loya, Juan Francisco, M.D., Lic. No. J4309, El Paso**

On December 4, 2015, the Board and Juan Francisco Loya, M.D., entered into a Modified Agreed Order, modifying Dr. Loya's 2006 Order. The modification requires Dr. Loya to within 60 days pay an administrative penalty of \$1,500. The Board found Dr. Loya violated the terms of his 2006 Order by failing to cooperate with other employees or agents of the Board. The drug/alcohol rehabilitation program required Dr. Loya to check in on a daily basis. Dr. Loya violated the terms of the Order when he called in late on two occasions and failed to call in on one occasion. All other terms of 2006 Order remain in full force and effect.

**Ng, Federico Roman, M.D., Lic. No. J6623, San Antonio**

On December 4, 2015, the Board and Federico Roman Ng, M.D., entered into a Modified Agreed Order, modifying Dr. Ng's May 2014 Order. The modification requires Dr. Ng to no later than February 15, 2016, complete the physician-patient boundaries course offered by the University of California San Diego Physician Assessment and Clinical Education (PACE) program; within 60 days complete at least 28 hours of CME, divided as follows: eight hours in medical recordkeeping, eight hours in identifying drug-seeking behaviors, eight hours in risk management and four hours in ethics; within one year and three attempts pass the Medical Jurisprudence Exam; and within 60 days pay an administrative penalty of \$2,000. The Board found Dr. Ng failed to timely complete the PACE course and failed to complete all CME as required by his 2014 Order. All other terms of the 2014 Order remain in full force and effect.

**Olusola, Benedict Oladipo, M.D., Lic. No. J7118, DeSoto**

On December 4, 2015, the Board and Benedict Oladipo Olusola, M.D., entered into an Agreed Order requiring Dr. Olusola to have his practice monitored by another physician for eight consecutive monitoring cycles. The Board found Dr. Olusola failed to comply with all terms of his February 2013 Board Order by failing to timely implement the recommendations following his completion of the PACE program evaluations.

**Rembecki, Richard Michael, M.D., Lic. No. J2461, Frisco**

On December 4, 2015, the Board and Richard Michael Rembecki, M.D., entered into an Agreed Order publicly reprimanding Dr. Rembecki and requiring him to within 60 days pay an administrative penalty of \$1,000. The Board found Dr. Rembecki failed to timely provide a copy of the February 2015 Order to Darnall Army Medical Center as required by the Order.

**Shelton, Kevin James, M.D., Lic. No. N1893, Celina**

On December 4, 2015, the Board and Kevin James Shelton, M.D., entered into an Agreed Order Modifying Prior Order, modifying Dr. Shelton's 2013 Order. The modification requires Dr. Shelton to within one year complete at least four hours of CME in billing/coding; within 60 days complete eight hours of CME in endocrinology; within 60 days write a letter to his Compliance Officer apologizing for his conduct and lack of cooperation and provide proof of delivery of said letter to the Board; and within 30 days contact the Texas Physician Health Program (PHP) for the purposes of scheduling an evaluation. The Board found Dr. Shelton was in violation of his 2013 Order by failing to complete required CME in a timely manner, failing to pay his administrative penalty in a timely manner, and failing to cooperate with Board staff regarding his compliance with the Order.

**Whitt, Theresa Ann, M.D., Lic. No. J0360, Houston**

On December 4, 2015, the Board and Theresa Ann Whitt, M.D., entered into an Agreed Order Modifying Prior Order, modifying Dr. Whitt's 2013 Order. The modification lengthens the period of probation to six years. The Board found Dr. Whitt violated the terms of her 2013 Order by failing to timely submit letters from three potential psychiatrists and by failing to call in to Recovery Trek on two occasions. All other terms of the 2013 Order remain in full force and effect.

## **ADVERTISING VIOLATIONS**

### **Nikko, Anthony Phan, M.D., Lic. No. K5639, Houston**

On December 4, 2015, the Board and Anthony Phan Nikko, M.D., entered into an Agreed Order requiring Dr. Nikko to within one year and three attempts pass the Medical Jurisprudence Exam; within one year complete at least 16 hours of CME, divided as follows: eight hours in ethics and eight hours in risk management; and within 90 days pay an administrative penalty of \$5,000. The Board found Dr. Nikko advertised that he was a member of the American Society of Cosmetic Dermatology & Aesthetic Surgery on his website, which could not be confirmed, failed to update and clarify his website that noted he was a “fellow” of both the American Society of Cosmetic Breast Surgery, where he only holds “member” status, and the American Society of Mohs Surgery, where he has not been a member since 2006.

## **INADEQUATE MEDICAL RECORDS**

### **Biddix, Jerry Wayne, M.D., Lic. No. E3855, Winters**

On December 4, 2015, the Board and Jerry Wayne Biddix, M.D., entered into a Mediated Agreed Order requiring Dr. Biddix to within one year complete at least 16 hours of CME, divided as follows: eight hours in risk management, four hours in medical recordkeeping and four hours in pain management. The Board found Dr. Biddix’s recordkeeping on the date of service at issue was inadequate in that he failed to document events of the clinic visit or pertinent medical advice relating to an adverse reaction to a medication. This order resolves the formal complaint filed at the State Office of Administrative Hearings.

### **Chandna, Harish, M.D., Lic. No. K6546, Victoria**

On December 4, 2015, the Board and Harish Chandna, M.D., entered into a Mediated Agreed Order requiring Dr. Chandna to within one year complete at least eight hours of CME in medical recordkeeping and within 60 days pay an administrative penalty of \$750. The Board found Dr. Chandna did not fully transcribe/dictate a patient’s complete history and his evaluation. This order resolves the formal complaint filed at the State Office of Administrative Hearings.

### **McFarland, Michael Allen, M.D., Lic. No. G8271, Jourdanton**

On December 4, 2015, the Board and Michael Allen McFarland, M.D., entered into a Mediated Agreed Order requiring Dr. McFarland to within one year complete at least 4 hours of CME in risk management. The Board found Dr. McFarland failed to sign off on his physician assistant’s hospital patient records in a timely fashion, which was required for the hospital to submit the proper modifier/CPT code for billing authorization. This order resolves the formal complaint filed at the State Office of Administrative Hearings.

## **CEASE AND DESIST**

### **Figueroa, Amalia, No License, Arlington**

On December 4, 2015, the Board and Amalia Figueroa entered into an Agreed Cease and Desist Order, prohibiting Ms. Figueroa from acting as, or holding herself out to be, a licensed physician in the State of Texas. The Board found Ms. Figueroa admitted to Texas Alcohol and Beverage Commission (TABC) officers during an inspection of El 8 Sports Bar in Arlington, Texas that she treats patients in a back room.

### **McDonald, Steven Blake, No License, Flower Mound**

On December 4, 2015, the Board and Steven Blake McDonald entered into an Agreed Cease and Desist Order, prohibiting Mr. McDonald from acting as, or holding himself out to be, a licensed physician in the State of Texas. Mr. McDonald shall cease and desist any use of the title of “doctor,” or “physician,” and cease and desist from making any assertions, implied or explicit, that he is as licensed physician. The Board found Mr. McDonald asserted that he was a surgeon responding to an emergency call during a traffic stop by a Lewisville police officer and later admitted to a judge during the plea hearing that he was not a licensed physician in Texas nor a graduate from a medical school.

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

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