

1999 Press Releases

December 21, 1999

19 Doctors Disciplined

During its December 9-11 Board meeting, the Texas State Board of Medical Examiners disciplined 19 licensed physicians, who received one or more of the following actions: three revocations; seven suspensions, of which two were stayed and probated under various terms and conditions; two restrictions; three public reprimands; and four administrative penalties totaling \$13,000 were assessed. In addition, two physicians have been placed under temporary suspension orders on an emergency basis.

Executive Director to Leave Board

At the December 9-11 Board meeting, during a state-of-the-agency report, Executive Director Bruce A. Levy, M.D., J.D., asked the Board to initiate a search for his successor. In his statement, Dr. Levy reminded the Board that when he became executive director in November, 1993, it had a reputation for not effectively protecting the public. In his more than six years with the Board, Dr. Levy has guided the agency to a position of respect from the public, the Legislature, medical schools and the medical community. Dr. Levy's direction has enabled the Texas State Board of Medical Examiners to earn a national reputation as a model for state medical boards across the country. Board members represent Texas on the Federation of State Medical Boards, and Dr. Levy has served on the Federation's board, as well as on numerous Federation committees. He serves on committees of the National Board of Medical Examiners and sits on panels to evaluate other state medical boards and provided recommendations for improvement to those state legislatures.

Since 1995, Dr. Levy has served as the elected chair of the Texas Health Professions Council and as the chair of the Graduate Medical Advisory Committee of the Texas Higher Education Coordinating Board.

In Dr. Levy's tenure as executive director, the board has issued new licenses to 17,438 physicians, which represents more than one-third of all licensed Texas physicians and more than half of all physicians practicing within Texas. The board has taken 1,032 disciplinary actions against physicians in the same period. In addition, it has developed guidelines or rules for proper prescribing for pain management, integrative and complementary medicine and resident permitting; it is developing rules for office-based anesthesia and will soon implement physician profiles. In 1998, Dr. Levy requested an outside audit by consultants KPMG, which resulted in a reorganization of the agency that has enhanced efficiency and made it possible for the agency to carry out its mandates within budgetary constraints.

Dr. Levy, 52, received his medical degree from Hahnemann Medical College and Hospital in Philadelphia in 1971. He received a law degree from the University of Houston, Bates School of Law, in 1992. He is board certified by the American Board of Anesthesiologists and has served as Assistant Professor, Department of Anesthesiology, University of Washington, Seattle, and as Clinical Assistant Professor, Department of Anesthesiology, Baylor College of Medicine, Houston. He lives in Austin with his wife, Marcia, and their children.

Board President William H. Fleming III, M.D., said, "Dr. Levy has done an exceptional job as the executive director and it will be exceedingly difficult to replace him."

A national search for an executive director will be undertaken. Dr. Levy will serve as an ex-officio member of the Board's search committee and will continue to direct the Board through the transition to the appointment of a new executive director.

Dr. Levy is considering numerous opportunities and will announce his plans during the transition period.

Board Sets Internet Prescribing Policy

At the December 8-11 Board meeting the Board established the following policy regarding internet prescribing:

Section 3.08(4) [of the Medical Practice Act] authorizes the Board to discipline a licensed Texas physician for unprofessional conduct that is likely to deceive or defraud the public or injure the public. Section 3.08(4)(E) defines unprofessional or dishonorable conduct to include "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." Section 3.08(4)(E) defines unprofessional or dishonorable conduct to include prescribing, administering or dispensing in a manner not consistent with public health and welfare dangerous drugs as defined by Chapter 483, Health & Safety Code.

Section 3.08(18) authorizes the board to discipline a licensed Texas physician for professional failure to practice medicine in an acceptable manner consistent with public health and welfare.

It is unprofessional conduct for a physician to initially prescribe any dangerous drugs or controlled substances without first establishing a proper physician-patient relationship. A proper relationship, at a minimum, requires:

- (1) verifying that the person requesting the medication is in fact who they claim to be;
- (2) establishing a diagnosis through the use of accepted medical practices such as a patient history, mental status exam, physical examination and appropriate diagnostic and laboratory testing;
- (3) discussing with the patient the diagnosis and the evidence for it, the risks and benefits of various treatment options; and
- (4) insuring availability of the physician or coverage for the patient for appropriate follow-up care.

An online or telephonic evaluation by questionnaire is inadequate.

Proposed Rules and Rule Changes

The Board proposed the following rule changes for publication in the *Texas Register* and comment: Chapter 183.4, proposed change that acknowledges 213 as the passing score of the

computer-based version of the Test of English as a Foreign Language; and Chapter 163.5 regarding translation of documents into the English language.

The following new rules were proposed for publication in the *Texas Register* and comment: Chapter 173, Physician Profiles, regarding comprehensive profiles of each licensed physician to be made available to the public; and Chapter 192, regarding office-based anesthesia.

The following proposed rule changes were withdrawn for further staff work: Chapter 164, Advertising, repeal of Section 164.1 and new sections 164.1-164.5 regarding deceptive and misleading advertising, and Chapter 167, Reinstatement, rule review and proposed new sections 167.4-167.6 regarding criteria to be considered when assessing whether it is in the best interest of the physician or the public to reinstate a physician's license.

For copies of the proposed rules, write the Board at MC 901, P.O. Box 2018, Austin, TX 78768-2018, or e-mail pat.wood@tmb.state.tx.us.

Disciplinary Actions

Allison, Dale C., MD., Waco, TX, Lic. #E2435

An Agreed Order was entered on 12-11-99 assessing an administrative penalty in the amount of \$5,000. Action due to unprofessional conduct, nontherapeutic prescribing or treatment, failure to supervise delegates and violation of Board rules.

Andrabi, Tayab R., MD., Houston, TX, Lic. #J3961

An Agreed Order was entered on 12-11-99 restricting the physician's license for five years under certain terms and conditions. Action due to intemperate use of alcohol or drugs, unprofessional conduct, and disciplinary action by peers.

Ayub, Pablo, MD., El Paso, TX, Lic. #C1579

An Agreed Order was entered on 12-11-99 publicly reprimanding the physician. Action due to unprofessional conduct, violation of laws connected with the practice of medicine, and failure to keep drug records.

Brice, Nelson, MD., Snyder, TX, Lic. #E6250

An Agreed Order was entered on 12-11-99 publicly reprimanding the physician, and restricting the physician's license for two years under certain terms and conditions. Action due to failure to keep drug records, nontherapeutic prescribing or treatment, administering dangerous drugs in an improper manner, violation of Board rules, and practice inconsistent with public health and welfare.

Conde, Arthur Baay, MD., Houston, TX, Lic. #D3766

An Agreed Order was entered on 12-11-99 wherein the physician voluntarily and permanently surrendered his license. Action due to unprofessional conduct.

Culberson, John W., MD., Houston, TX, Lic. #J9653

Dr. Culberson's medical license was suspended effective 12-8-99. Action due to violation of Order dated 8-28-99.

Dunegan, Mark A., M.D., Houston, TX, Lic. #H8013

An Agreed Order was entered on 12-11-99 wherein the physician voluntarily surrendered his license due to his inability to practice medicine with reasonable skill and safety by reason of his illness and physical condition.

Falbey, Robert Joseph, D.O., Arlington, TX, Lic. #F4817

An Agreed Order was entered 12-11-99 suspending the physician's license, staying the suspension and placing him on probation for five years under certain terms and conditions. Action due to intemperate use of alcohol or drugs.

Hubbard, Gregory G., D.O., Dallas, TX, Lic. #G3480

An Agreed Order was entered on 12-11-99 suspending the physician's license. Action due to intemperate use of alcohol and drugs and unprofessional conduct.

Krusen, Donna L, M.D., Plano, TX, Lic. #H4474

An Agreed Order was entered on 12-11-99 suspending the physician's license. Action due to unprofessional conduct, violation of laws connected with the practice of medicine, nontherapeutic prescribing or treatment, impairment due to illness or chemical abuse, and practice inconsistent with public health and welfare.

Moore, Joseph W., M.D., Austin, TX, Lic. #F9848

An Agreed Order was entered on 12-11-99 in which the physician voluntarily and permanently surrendered his license. Action due to unprofessional conduct and practice inconsistent with public health and welfare.

Nix, Darryl D., D.O., Arlington, TX, Lic. #F9883

An Agreed Order was entered on 12-11-99 suspending the physician's license, staying the suspension, and placing the physician on probation for five years under certain terms and conditions. Action due to nontherapeutic prescribing or treatment, and practice inconsistent with public health and welfare.

O'Connor, Andrew M., M.D., Dallas, TX, Lic. #E7690

A Temporary Suspension Order was entered on 11-5-99 temporarily suspending Dr. Andrew M. O'Connor's license due to evidence and information that his continuation in the practice of medicine would constitute a continuing threat to public welfare. The allegations related to the application for temporary suspension are to be the subject of a disciplinary hearing as soon as can be accomplished under the Administrative Procedure Act and the Medical Practice Act.

Sanders, Mark O., M.D., Sugarland, TX, Lic. #F4475

An Agreed Order was entered on 12-11-99 assessing an administrative penalty in the amount of \$2,500. Action due to practice inconsistent with public health and welfare.

Slusher, Kevin D., M.D., Tyler, TX, Lic. #J7200

An Agreed Order was entered on 12-11-99 suspending the physician's license. Action due to intemperate use of alcohol or drugs and unprofessional conduct.

Spinks, David W., D.O., Deer Park, TX, Lic. #F4557

An Agreed Order was entered on 12-11-99 publicly reprimanding the physician. Action due to nontherapeutic prescribing or treatment and practice inconsistent with public health and welfare.

Steward, Robert H., M.D., Houston, TX, Lic. #H3946

A Temporary Suspension Order was entered on 10-21-99 temporarily suspending Dr. Robert H. Steward's license due to evidence and information that his continuation in the practice of medicine would constitute a continuing threat to public welfare. The allegations related to the application for temporary suspension are to be the subject of a disciplinary hearing as soon as can be accomplished under the Administrative Procedure Act and the Medical Practice Act.

Tran, Paul C., M.D., Houston, TX, Lic. #G2081

An Agreed Order was entered on 12-11-99 assessing an administrative penalty in the amount of \$5,000 and suspending the physician's license. Action due to unprofessional conduct, violation of laws connected with the practice of medicine, nontherapeutic prescribing or treatment, administering dangerous drugs in an improper manner, and practice inconsistent with public health and welfare.

Webb, Paul C., M.D., Kaufman, TX, Lic. #E1442

An Agreed Order was entered on 12-11-99 assessing an administrative penalty in the amount of \$500. Action due to violation of Board rules.

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For more information, call Jill Wiggins, Public Information Director, at (512) 305-7018 or write to:

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