



## ***TEXAS MEDICAL BOARD***

Mari Robinson, J.D.  
Executive Director

***Upholding Professional Accountability:  
What You Need to Know About  
Physician Licensure, Discipline, &  
Regulation in Texas***



# Mission Statement

“Our mission is to protect and enhance the public’s health, safety and welfare by establishing and maintaining standards of excellence used in regulating the practice of medicine and ensuring quality health care for the citizens of Texas through licensure, discipline and education.”



*"Some guys from the state board of medicine are here to see you."*

# Texas Medical Board Composition

- 12 Physician members (9 M.D. and 3 D.O.)
- 7 Public members (non-physicians)
- Appointed by the Governor for 6 year term

## Board members

Irvin Zeitler, D.O.- President

Melinda McMichael, M.D.-Vice President

Timothy Turner – Secretary/Treasurer

Michael Arambula, M.D.

Julie Attebury

David Baucom

Jose Benevides, M.D.

Patrick Crocker, D.O.

Patricia Blackwell

John D. Ellis

Timothy Webb

Manuel Guajardo, M.D.

Scott Holliday, D.O.

Margret McNeese, M.D.

Charles Oswalt, M.D.

Allan Shulkin, M.D.

Wynee Snoots, M.D.

Paulette Southard

George Willeford, III, M.D.

# Quick Facts

- Texas Medical Board is 1 of many regulatory agencies in the state of Texas.
- The TMB operates under:
  - Texas Medical Practice Act
  - Rules adopted by the Texas Medical Board
- Brings in \$73 million - \$51 million goes to State's General Revenue Fund and \$22 million to TMB.
- Revenue is from application and renewal fees, NOT from fines. All funds received from fines go to General Revenue and are not kept by the TMB.
- There are approximately 157 full time employees on staff, who also serves the Texas Physicians Assistant Board and Texas State Board of Acupuncture Examiners.

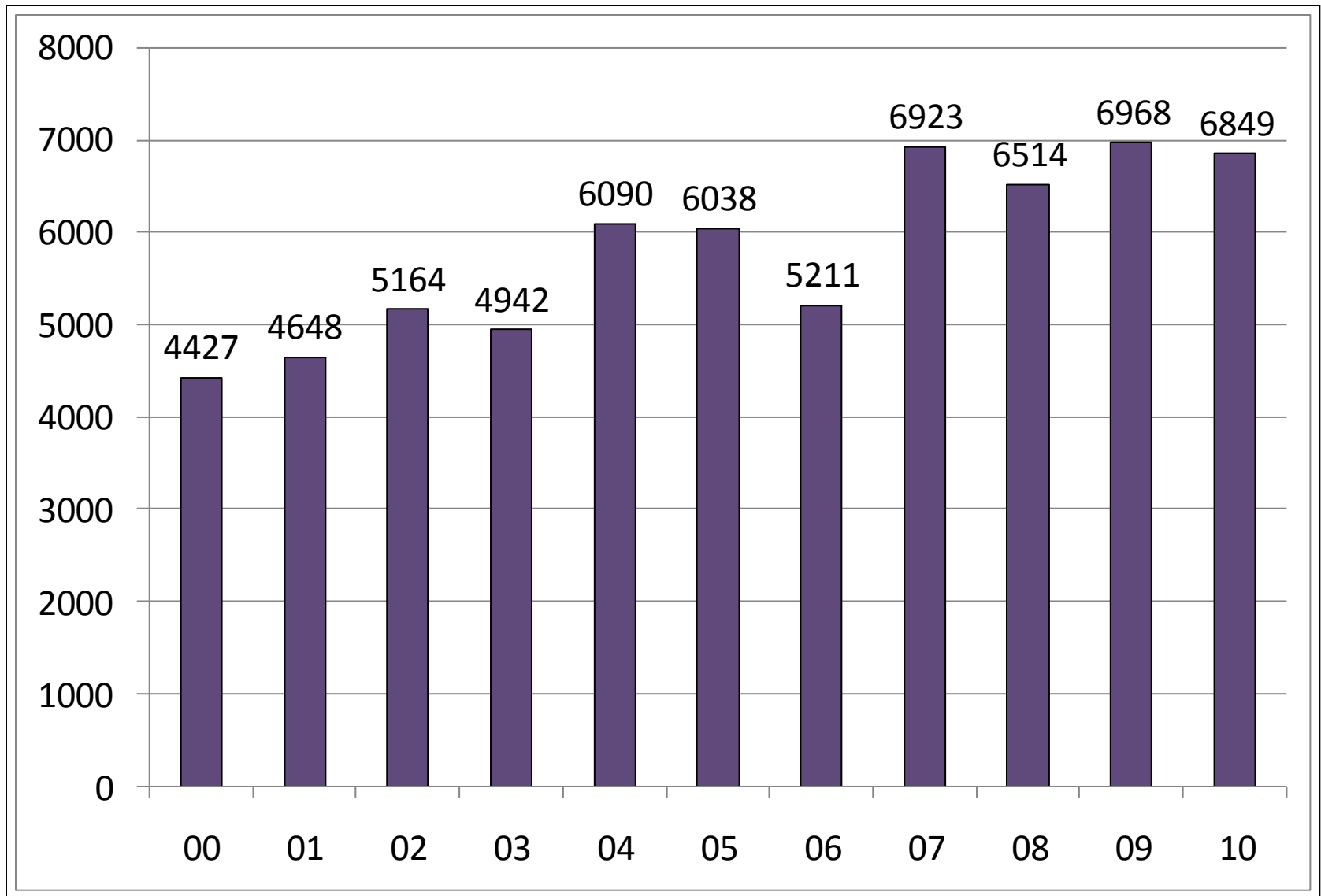
# Licensee Demographics

	FY 02	FY 03	FY 04	FY 05	FY 06	FY 07	FY 08	FY 09	FY10
<b>Licensed Physicians</b>	60,930	62,199	62,537	63,758	64,175	66,614	69,030	70,381	72,885
<b>Physicians</b>	Unk.	56,301	55,993	57,150	58,040	60,209	62,693	64,134	66,683
<b>Physicians in Training</b>	Unk.	5,898	6,544	6,608	6,135	6,405	6,337	6,247	6,202
<b>Acupuncturists</b>	576	608	693	700	770	835	884	910	974
<b>Physician Assistants</b>	3,313	3,267	3,453	3,732	4,002	4,290	4,667	4,967	5,576
<b>Surgical Assistants</b>	0	158	259	272	242	259	259	269	304

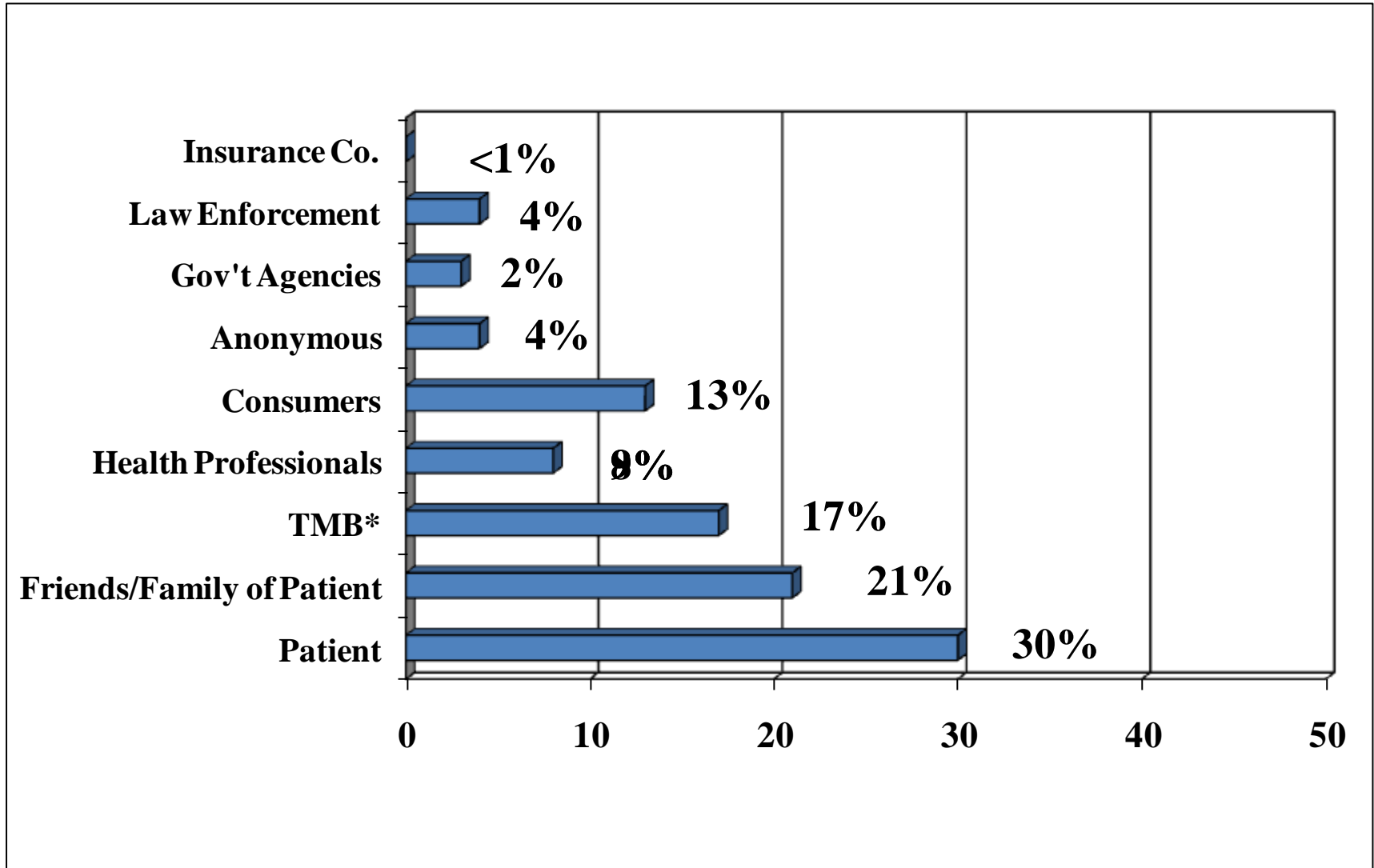


# **ENFORCEMENT PROCESS**

# Complaints Received FY '00 – '10

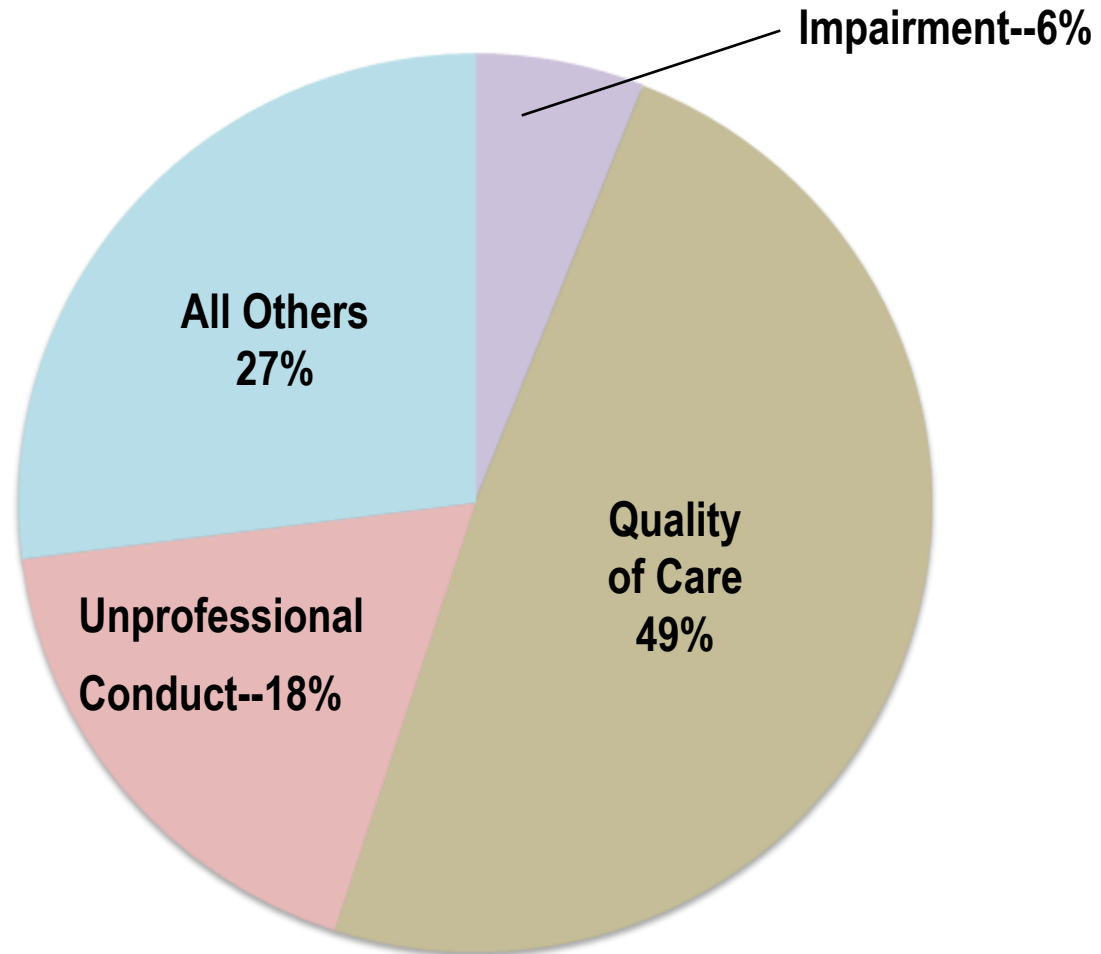


# Complaints by Source-FY '10

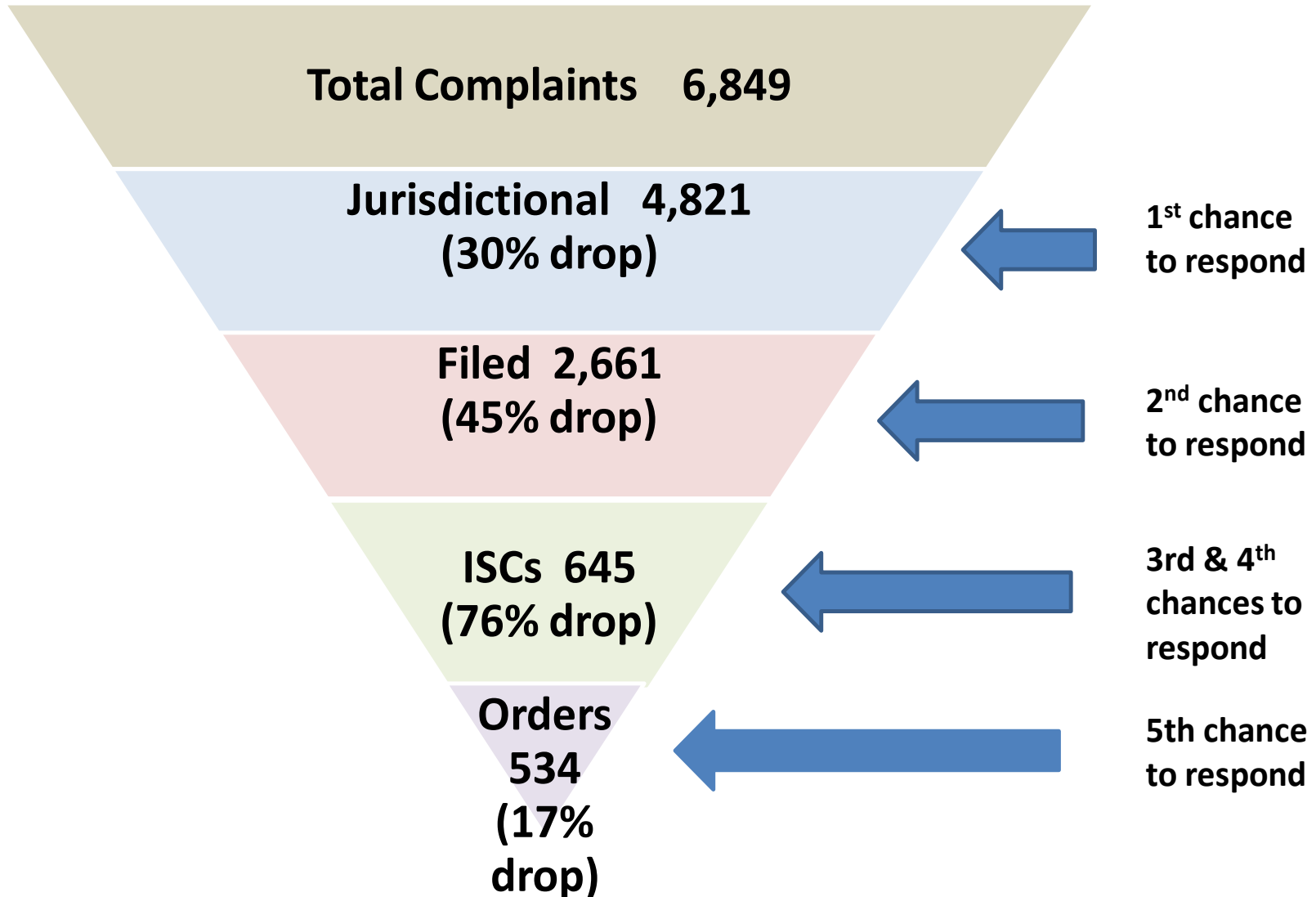


\*TMB category includes registrations responses, CME audits, medical malpractice reviews, newspaper items, and board discovered violations.

# Basis of TMB complaints FY '10



# Complaints FY '10



# What you might not know...

- Prescribing & Pain Management
- Complementary & Alternative Medicine
- Delegation
- Advertising
- Administrative Issues
- Communication
- New Laws

# Prescribing to Friends & Family

Rule 190.8(1)(M) inappropriate prescription of dangerous drugs or controlled substances to oneself, family members, or others in which there is a close personal relationship that would include the following:

(i) prescribing or administering dangerous drugs or controlled substances without taking an adequate history, performing a proper physical examination, and creating and maintaining adequate records; and

(ii) prescribing controlled substances in the absence of immediate need. "Immediate need" shall be considered no more than 72 hours.





B. Smaller

*"I think the dosage needs adjusting. I'm not nearly as happy as the people in the ads."*

# Prescribing for Pain

## Board Rule 170

- Evaluation of the patient
- Treatment plan
- Informed consent
- Agreement for treatment of chronic pain
- Periodic review of the treatment
- Consultation and referral
- Medical records



The truth is, doctor,  
I've lost faith in  
western medicine!

sipress



# Complementary & Alternative Medicine

## Board Rule 200

- Patient Assessment
- Disclosure
- Treatment Plan
- Periodic Review of Treatment
- Adequate Medical Records
- Therapeutic Validity
- Clinical Investigations
- Safe Harbor



*"I'm sorry, the doctor no longer makes diagnoses."*

# Delegation-general

- Sec. 157.001. GENERAL AUTHORITY OF PHYSICIAN TO DELEGATE. (a) A physician may delegate to a qualified and properly trained person acting under the physician's supervision any medical act that a reasonable and prudent physician would find within the scope of sound medical judgment to delegate if, in the opinion of the delegating physician:
  - (1) the act:
    - (A) can be properly and safely performed by the person to whom the medical act is delegated;
    - (B) is performed in its customary manner; and
    - (C) is not in violation of any other statute; and
  - (2) the person to whom the delegation is made does not represent to the public that the person is authorized to practice medicine.
- (b) The delegating physician remains responsible for the medical acts of the person performing the delegated medical acts.

# Delegation (con't)

## **Nurses**

Performance of an act that requires substantial specialized judgment and skill, the proper performance of which is based on knowledge and application of the principles of biological, physical, and social science as acquired by a completed course in an approved school of professional nursing. The term does not include acts of medical diagnosis or the prescription of therapeutic or corrective measures.

## **Physician Assistants**

The practice of a physician assistant includes providing medical services delegated by a supervising physician that are within the education, training, and experience of the physician assistant.

# Delegation (con't)

## **Nurses**

- No delegation required for acts defined as Professional Nursing by Sec. 301.002. (e.g.- assessments, evaluations, observation, administration)
- APNS— can delegate diagnosis and treatment via delegation protocols, including prescription drugs Schedules III-V.

## **Physician Assistants**

- Delegation is always required.
- can delegate diagnosis and treatment via delegation protocols, including prescription drugs Schedules III-V.

# Prescriptive Delegation

	<b>§157.052. Sites Serving Medically Underserved Populations</b>	<b>§157.053.Prescribing at Physician Primary Practice Sites</b>	<b>§157.0541.Prescribing at Alternate Sites</b>	<b>§157.054. Facility-Based Practice Sites</b> (*Must be director /chief/chair)
<b>FTE and Facility Maximums</b>	No limits.	May not exceed four PAs or APNs or their full-time equivalent at the physician's primary practice site or at an alternate practice site. Can seek a waiver for up to six.	May not exceed four PAs or APNs or their full-time equivalent at the physician's primary practice site or at an alternate practice site. Can seek a waiver for up to six.	<ul style="list-style-type: none"> <li>• Long term care: May not exceed four PAs or APNs or their full-time equivalent at two facilities.</li> <li>• Licensed hospital: unlimited, but may only be at one facility.</li> </ul>
<b>Patient Relationships</b>	Not addressed.	Physician must have established/will establish a physician-patient relationship, but the physician is not required to see the patient within a specific period.	Not addressed.	Not addressed.

# Prescriptive Delegation

	<b>§157.052. Sites Serving Medically Underserved Populations</b>	<b>§157.053 Prescribing at Physician Primary Practice Sites</b>	<b>§157.0541.Prescribing at Alternate Sites</b>	<b>§157.054. Facility-Based Practice Sites</b> (*Must be director /chief/chair)
<b>Supervision Requirements</b>	<p>Delegating physician:</p> <ul style="list-style-type: none"> <li>•is responsible for the formulation or approval of the orders or protocols, as well as the review</li> <li>•is on-site 10 business days during which the APN or PA is on-site providing care;</li> <li>•receives a daily status report on any problem or complication encountered; and</li> <li>•is available through direct telecommunication</li> </ul>	<p>A physician shall provide continuous supervision, but the constant physical presence of the physician is not required.</p>	<p>Delegating physician:</p> <ul style="list-style-type: none"> <li>•is on-site with the APN or PA at least 10 percent of the time;</li> <li>•is available through direct telecommunication for consultation, patient referral, or assistance with a medical emergency;</li> <li>•reviews at least 10 percent of the medical charts at the site;</li> <li>•must live/have primary site within 75 miles.</li> </ul>	<ul style="list-style-type: none"> <li>• A physician shall provide continuous supervision, but the constant physical presence of the physician is not required.</li> <li>• Delegation must be made under a physician's order, standing medical order, standing delegation order, or another order or protocol approved by the facility</li> </ul>

# Prescriptive Delegation

	<b>§157.052. Sites Serving Medically Underserved Populations</b>	<b>§157.053.Prescribing at Physician Primary Practice Sites</b>	<b>§157.0541.Prescribing at Alternate Sites</b>	<b>§157.054. Facility-Based Practice Sites</b> (*Must be director /chief/chair)
<b>Alternate Supervising Physicians</b>	Not addressed.	Allowed on a temporary basis.	Allowed on a temporary basis.	Allowed on a temporary basis.
<b>Advertising Requirements</b>	Must have the name & business address of the supervising physician for the site.	Not addressed.	Not addressed.	Not addressed.



# Office Based Anesthesia

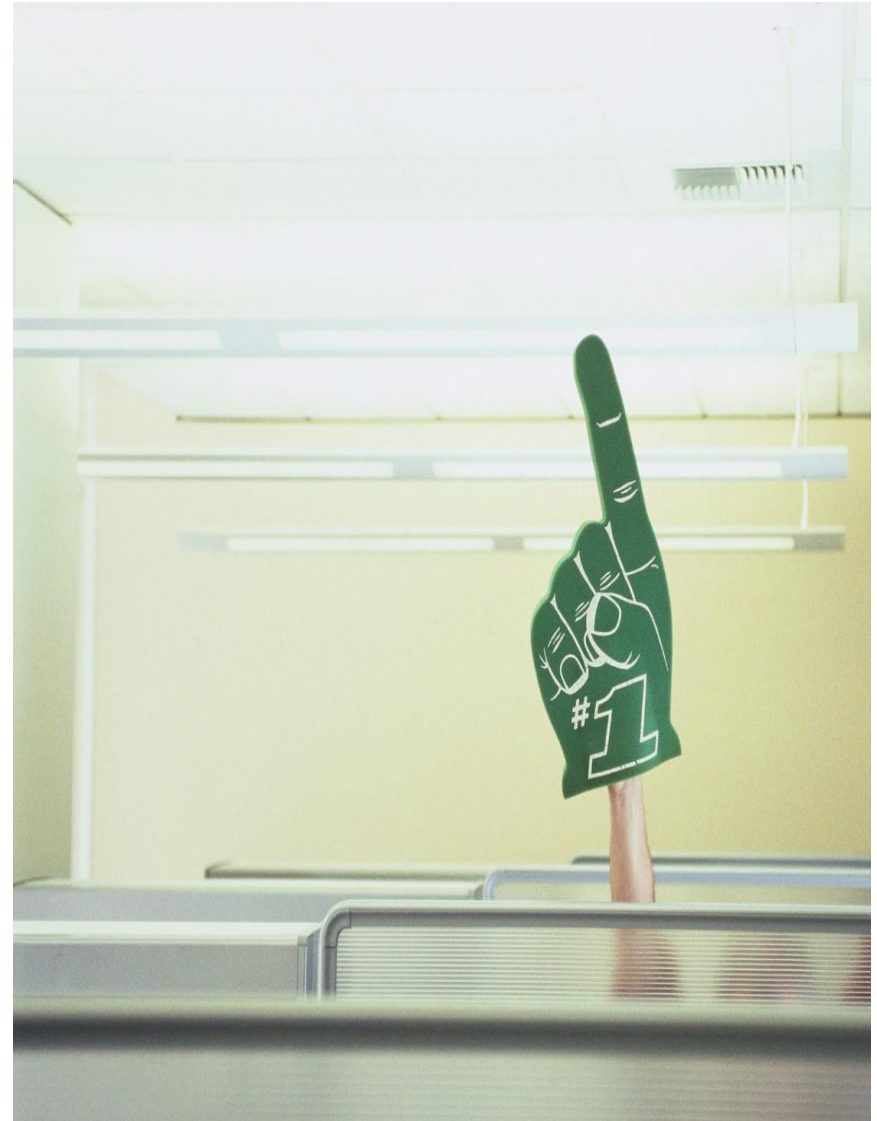
## Board Rule 192

- You must register with the board
- You must provide proper equipment
- Exemptions: hospitals, government facility, some JCAHO certified centers

# Advertising

## Board Rule 164

- False/misleading
- Verifiable?
- Photos/Testimony
- Board Certification
- Insurance Benefits



# Administrative Issues

## Medical Records Release (Rule 165):

- 15 business days for release/summary
- \$25 for the first twenty pages and \$.50 per page for every copy thereafter
- \$15 may be charged for executing the affidavit
- Separate fees for medical & billing are allowed.
- No charge for retrieval or searching
- May wait for payment for records unless emergency
- May not require fees for medical services to be paid before releasing the records

# Administrative Issues

- Death Certificates—You must use the electronic system
- Change of Address/Name—Must be reported to the board within 30 days
- CME—48 hours every two years (24 Cat I two of which must be ethics & 24 informal)
- Closing Practice—165.5 (letters & notice)

# New Laws: What has Changed?

- HB 732—All formal complaints (those filed at the State Office of Administrative Hearings) and medical malpractice board investigations will be removed from the physician's web profile if:
  1. It was dismissed with no action taken against the license
  2. It is over five years old.



# New Laws: What has Changed?

- HB 963-the board must issue a letter for those seeking an evaluation of their criminal history as it relates to future licensure
- HB 1888-Rankings requirements & Physicians cannot request/require a patient not to participate in health plan rankings
- HB 2256-Mediation process for facility based physicians for bills over \$1000



# New Laws: What has Changed?

- HB 3674-Eliminates certain licensing requirements for IMGs (practice in country and substantial equiv. for brd cert.)
- SB 202-Provisional licenses; limited to 270 days and underserved areas; must be licensed in another state and passed exams.
- SB 292-TMB to collect e-mail, fax and phone #s for emergency contact



# New Laws: What has Changed?

- SB 292 amendment-Creates the TXPHP
- SB 381-Allows physician delegation to pharmacists
- SB 532-Changes prescriptive delegation limits; requires delegation to be registered with TMB; allows up to 6 extenders via waiver; from 30 to 90 days (incl. one refill); 60 miles to 75; 20% presence to 10%



# New Laws: What has Changed?

- SB 911-Pain management clinics must be owned by a physician with an unrestricted license and must register with the board
- SB 1225-Allows faculty temporary licenses at institutions with ACGME programs regardless of whether there is a school attached.



# New Laws: What has Changed?

- HB 449- Laser hair removal facilities
- HB 1310- Tanning salon warning statement



# What will change?

- Telemedicine, Board Rule 174



*"Give it to me straight, Doc. How long do I have to ignore your advice?"*



# Contact Information

## Pre-Licensure, Registration, and Consumer Services

[Verificic@tmb.state.tx.us](mailto:Verificic@tmb.state.tx.us)

Phone: 512-305-7030

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