

## PHYSICIAN OPTIONS FOR EARLY TERMINATION OF AN AGREED BOARD ORDER

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### Introduction

The Bennett Law Firm tirelessly advocates on behalf of health care providers before the Texas Medical Board (TMB) as well as all other licensing boards for other health care providers. After representing numerous physicians, physician assistants, dentists, and nurses, the most frequent question is how to petition for termination of an Agreed Board Order. This article explains the steps needed to petition the TMB for an early termination and assesses the chances of success. While many doctors worry about walking the fine line between petitioning for an early termination and upsetting the TMB, this article encourages doctors to utilize the TMB's own Board Rules and procedures in petitioning for early termination of an Agreed Board Order.

Agreed Board Orders are commonly entered after an Informal Settlement Conference before a panel of TMB members. (i) Recently, the TMB has been cracking down on physicians by imposing an increasing number of disciplinary decisions. In 2006, the TMB administrated over three (3) times more disciplinary decisions than in 1999. (ii) Conversely, the number of granted terminations of Agreed Board Orders declined by roughly 30% from 1999-2006.(iii)

| <b>PENALTIES</b>                    | <b>FY 2006</b> | <b>FY 2005</b> | <b>FY 2004</b> | <b>FY 2003</b> | <b>FY 2002</b> | <b>FY 2001</b> | <b>FY 2000</b> | <b>FY 1999</b> |
|-------------------------------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|
| <b>Medical Board</b>                |                |                |                |                |                |                |                |                |
| Temporary Suspensions               | 11             | 20             | 8              | 7              | 19             | 9              | 7              | 9              |
| Temporary Restrictions              | 1              | 1              | 2              |                |                |                |                |                |
| Revocations/Surrenders              | 41             | 32             | 33             | 39             | 37             | 15             | 19             | 7              |
| Suspensions                         | 22             | 23             | 37             | 27             | 20             | 15             | 25             | 18             |
| Restrictions on License             | 48             | 56             | 86             | 83             | 61             | 36             | 38             | 39             |
| Restrictions on Person              | 119            | 98             | N/A            | N/A            | N/A            | N/A            | N/A            | N/A            |
| Public Reprimands                   | 4              | 2              | 29             | 36             | 13             | 14             | 13             | 14             |
| Administrative Penalties            | 89             | 72             | 61             | 85             | 37             | 16             | 11             | 11             |
| <b>Total Disciplinary Decisions</b> | <b>335</b>     | <b>304</b>     | <b>256</b>     | <b>277</b>     | <b>187</b>     | <b>105</b>     | <b>113</b>     | <b>99</b>      |

(iv)

<sup>1</sup>While not always exactly the same, petitions for termination of agreed orders from other healthcare licensing boards are typically analogous to the rules and procedures established by the TMB.

| PENALTIES                    | FY 2006 | FY 2005 | FY 2004 | FY 2003 | FY 2002 | FY 2001 | FY 2000 | FY 1999 |
|------------------------------|---------|---------|---------|---------|---------|---------|---------|---------|
| Termination Requests Granted | 31      |         |         |         |         |         |         |         |
| -Disciplinary Orders         | NA      | 26      | 21      | 21      | 18      | 24      | 26      | 42      |
| -Rehabilitation Orders       | NA      | 11      | 7       | 5       | 7       | 6       | 9       | 2       |
| Termination Requests Denied  | 18      |         |         |         |         |         |         |         |
| -Disciplinary Orders         | NA      | 18      | 16      | 13      | 19      | 16      | 15      | 8       |

(v)

### **Factual Background of Dr. Doc<sup>2</sup>: Sample Case**

The representation of physician Dr. Doc, who unsuccessfully petitioned to the TMB for an early termination of an Agreed Board Order, serves as a good fact scenario for this article. Dr. Doc is a 70 year old physician with over 36 years experience. He is licensed in two states and is Board Certified in Orthopedic Surgery. He has two bad knees and is physically unable to stand long enough to perform surgery. Dr. Doc has been subjected to two Agreed Board Orders in the past five years.

For six months, Dr. Doc treated his secretary's sibling with pain killers to help reduce chronic pain due to an injury involving a hot welding iron. Dr. Doc examined this patient twice during the six month period, after which time Dr. Doc felt the patient was a borderline abuser of medication. Subsequently, the patient was referred to a different physician closer to the patient's residence which was over 175 miles away from Dr. Doc's office.

In 2002, Dr. Doc with counsel, entered into an Agreed Board Order for three years. The TMB enforced the Agreed Board Order for 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. Dr. Doc was ordered to maintain a logbook of all prescriptions written for controlled substances or drugs with a potentially addictive potential. He was also ordered to obtain extra CME hours, have his practice monitored by another physician, and pay a fine. Dr. Doc complied with the Order and in three years, the order terminated.

Less than six months later, Dr. Doc entered into an indefinite Agreed Board Order where he would cease performing any procedures that require the use of implants without first obtaining permission from the board. Dr. Doc voluntarily resigned all surgical privileges.

The second Agreed Board Order stemmed from the TMB deciding Dr. Doc failed to meet the standard of care in his performance of orthopedic surgery on two patients. With the first patient, a 60 year old male, the board held the standard of care was violated by the physician's

choice of an internal fixation device of a plain 14-hole plate placed on the anterior surface of the femur of a comminuted fracture that extended into the condylar area. Furthermore, when the repair failed, the Respondent did not immobilize the patient. The second patient, a 62 year old female, the board held the standard of care was violated when a component that did not match the bone preparation was used and cemented in place. The board found that the component does not easily fit on the bone and brute force would have been necessary to impact this component into a bone that had not been cut for it.

Dr. Doc resigned his hospital privileges and agreed not to perform surgery of any type. He got a job with a non-profit organization and after a year of full compliance, Dr. Doc petitioned for early termination of the second Agreed Board Order. The TMB granted a hearing on the petition, which allowed Dr. Doc to argue his case for termination before a panel of only two board members. At the conclusion of the Informal Show Compliance hearing (ISC), the two-member TMB panel denied Dr. Doc's petition for termination of the Agreed Board Order. No definitive reason was given by the TMB for denial of Dr. Doc's petition.

In all fairness, one may ask, if Dr. Doc is physically unable to perform surgeries, why he desired to seek to terminate his Agreed Order early? Dr. Doc wishes to accept a position with an insurance company, which involves sitting behind a desk examining workers compensation claims. In order to perform this job, at a salary many physicians would never consider, the insurance company requires that Dr. Doc be in good standing with the American Board of Orthopedic Surgery. However, while under the current Board Order he may lose his certification.

Therefore, the Agreed Board Order restriction has created an insurmountable hurdle which prevents Dr. Doc from the surgical table and from seeking some employment. If the Agreed Board Order intends to protect the general public, why is the TMB wasting valuable time and resources to impose a Board Order that prevents him from performing a job other physicians would not consider? Only the members sitting on the TMB know for sure.

### **Suggestions for Seeking Termination of an Agreed Board Order**

#### **Step 1: Filing a petition:**

Rule 187.43 of the TMB governs how a physician may petition for an early termination of any type of Board Order.(vi) A physician seeking an early termination may only petition to do so once a year unless their Agreed Board Order states otherwise. Assuming that the Order does not contain a special provision on early termination and the physician is in full compliance, the first step is to write a petition to the TMB.

The petition should be similar to the formal response a physician or his attorney filed

when the TMB initiated the evidentiary proceedings. A successfully argued petition grants the physician an ISC termination hearing before the Board. The standard to successfully petition for an ISC termination hearing is drastically lower than the standard used to actually have the Agreed Board Order terminated. Many times, the only thing required in order to be granted a hearing is proof that the physician was in full compliance with the Agreed Board Order. In the Dr. Doc example, this firm successfully argued that he was in compliance with all conditions of an indefinite Agreed Board Order and the Hearing was set.

### **Step 2: ISC hearing**

The ISC termination hearing is similar to the Informal show compliance proceeding and settlement conference which typically results in the Agreed Board Order in the first place. In an ISC termination hearing, usually a three-member board panel is present, along with the TMB staff attorney, the petitioning doctor, and the doctor's counsel, if counsel has been retained. The procedure followed is for the TMB Staff Attorney to state if they are opposed to the termination. If no opposition, the physician presents evidence on why the termination should be granted. At the conclusion of the ISC termination hearing, the TMB panel elects to either grant the petitioning doctor's request for termination of the Agreed Board Order, makes some type of modification to the Order, or decides to deny the petitioning doctor's request for termination thereby making no change to the Agreed Board Order.(vii)

There is nothing *informal* about the ISC termination hearing, and an action by the TMB carries as much weight, if not more, than some criminal proceedings. When terminating an Agreed Board Order, the support of counsel is a key factor in obtaining the best result possible from an ISC termination hearing because it shows the TMB that as a physician you are serious about the situation at hand and allows the development of evidence and argument that require legal training.

In accordance with the APA §2001.081, "the determination of the disciplinary panel may be based not only on evidence admissible under the Texas Rules of Evidence, but may be based on information of a type on which a reasonably prudent person commonly relies in the conduct of the person's affairs."(viii) Furthermore, TMB Rule 187.43 (a) explains that "the decision to...terminate a Board Order shall be a matter for the exercise of sound discretion by the board."(ix) This establishes that the burden of proof is up to the TMB panel's discretion. It also shows that counsel may be very creative in what evidence is presented. There is no objective burden of proof standard that the physician must show to successfully argue a termination. TMB Rule 187.43 (a) creates difficulty in arguing for termination because what may have enabled one physician to successfully argue for termination of an Agreed Board Order might not work for another physician with a similar case.(x)

TMB Rule 187.43 (d) lists circumstances that weigh greatly in favor of the petitioning physician when the board considers whether or not to terminate an Order. These factors include:

- (1) whether there has been a significant change in circumstances which indicates that it is in the best interest of the public and the licensee to modify or terminate the order;
- (2) whether there has been an unanticipated, unique or undue hardship on the licensee as a result of the Board Order which goes beyond the natural adverse ramifications of the disciplinary action (i.e. impossibility of requirement, geographical problems). Economic hardships such as the denial of insurance coverage or an adverse action taken by a medical specialty board are not considered unanticipated, unique or undue hardships;
- (3) whether the licensee has engaged in special activities which are particularly commendable or so meritorious as to make modification or termination appropriate; and
- (4) whether the licensee has fulfilled the requirements of the licensee's Order in a timely manner and cooperated with the board and board staff during the period of probation or restriction.(xi)

In addition to the factors listed in TMB Rule 187. 43 (d), there are also supplemental arguments that are often presented to the board at the ISC termination hearing. Historically, the factors most often argued in a successful ISC termination hearing are:

- It would save the TMB and the state of Texas a great deal of time and resources to terminate the Agreed Board Order early.(xii)
- The petitioner has already served a majority of the Board Order while under full compliance.(xiii)
- Petitioner went above-and-beyond by obtaining more CME hours than required by the Board Order.(xiv)
- Petitioner shows appreciation and respect to the TMB for helping him/her become a better doctor.(xv)
- Other physicians and health care providers support the termination of the Order.

At the ISC termination hearing for Dr. Doc, this firm presented evidence of the amount of time and resources that the TMB would save by releasing liability. Additionally, evidence was shown of Dr. Doc's unique circumstances with the insurance company, his voluntary relinquishment of surgical hospital privileges, his disability which prevented him from even being able to perform surgeries, his full compliance the entire time while under the indefinite Agreed Board Order, and the appreciation of the TMB helping him become a better physician. The Board's attorney presented no evidence.

Even with, the TMB's Enforcement Director not opposing the termination of the Agreed Board Order for Dr. Doc, but the petition for termination of the Agreed Order was denied.

Although no justification was given for the denial of Dr. Doc's petition, research implies it may have been for three reasons: First, Dr. Doc had only served one year of an indefinite order.(xvi) Second, the two member TMB panel may have mistakenly concluded that Dr. Doc might return to surgery, even with his physical disabilities, thus posing a threat to the welfare of the public. Finally, the history of Orders may have also been considered.

This decision is unfair since the TMB panel is not supposed to take past Agreed Board Orders into consideration. According to TMB Rule 179.7, past complaints are only examined during a new investigation when there is a pattern of practice or behavior.(xvii) Though not the TMB panel's fault, one could argue it is impossible for the human mind to not let a past Agreed Board Order have some bearing on the current issue set in front of them.

If experienced judges have problems with appearing completely unbiased in a trial, a TMB panel member with no legal training does not have the psyche to examine each physician from an unbiased standpoint. Rationality allows one to assume that past infractions with the TMB have a lingering effect.

#### **If Termination of the Agreed Board Order Is denied**

If termination is denied at the ISC termination hearing there are two paths a physician can take to reverse the decision. The first and most often traveled path is to comply with the stated terms of the Agreed Board Order and petition for another ISC termination hearing in another year. The second less traveled path is to file another petition under TMB Rule 187.43 (g), which establishes that a petition may be filed more than once a year if the request is valid and meets the requirement of §187.43 (d) (2).(xviii)

A successful petition for termination under TMB Rule 187.43 (d) (2) is very rare. There are no set circumstances as to what qualifies as an "unanticipated, unique, or undue hardship on the licensee."(xix) Most successful arguments used under this rule relate to inability to pay the Order's fine in full or public ridicule by the media.(xx) Many times when petitioning for an ISC termination hearing, a modification of the Agreed Board Order is granted, but termination is denied.

In the case of Dr. Doc, this firm is considering to petition for a new ISC termination hearing pursuant to TMB Rule 187.43 (g) by arguing the application of the Americans with Disabilities Act, presenting evidence and argument that Dr. Doc's physical inability to perform surgeries qualifies as an unanticipated and unique hardship. Additionally, the Agreed Board Order creates an undue hardship on Dr. Doc.

#### **Is the TMBSE being unfair?**

As of 2006, research shows that there are 619 physicians under board Order compared

to 231 physicians only eight years ago.(xxi) In 2006, one physician's case out of thirty-five (35) complaints filed resulted in an Agreed Board Order. This is contrasted to 1999 when only one physician's case out of 173 complaints filed resulted in an Agreed Board Order.(xxii) Surely the upsurge in disciplinary actions has nothing to do with the number of total complaints which have diminished 30.7% since 1999.

With the board cycling different members every few years, there is no consistent adjudication of physicians. Section 151.003 of the Medical Practice Act states that "the practice of medicine is a privilege and not a natural right of individuals, and as a matter of public policy it is necessary to protect the public interest through enactment of the Medical Practice Act to regulate the granting of that privilege and its subsequent use and control. The TMB should remain the primary means of licensing, regulating, and disciplining physicians." The role of the TMB is to regulate the licensing of doctors as well as discipline of doctors for the protection of the public.

According to §152.002 of the Medical Practice Act, the TMB consists of nineteen (19) members appointed by the governor with the advice and consent of the Senate. Twelve (12) members must be physicians, and the remaining seven (7) members represent the public. Appointments to the TMB shall be made without regard to race, color, disability, sex, religion, age of national origin. Is it really protecting the public if physicians who are no longer practicing surgery try to keep their certification to work in a job no one else wants?(xxiii)

| COMPLIANCE SECTION   | FY 2006 | FY 2005 | FY 2004 | FY 2003 | FY 2002 | FY 2001 | FY 2000 | FY 1999 |
|----------------------|---------|---------|---------|---------|---------|---------|---------|---------|
| Current Probationers | 652     | 622     | 553     | 430     | 321     | 287     | 280     | 250     |
| Physician            | 619     | 594     | 532     | 410     | 303     | 265     | 257     | 231     |

xxiv

| INVESTIGATIONS SECTION      | FY 2006 | FY 2005 | FY 2004 | FY 2003 | FY 2002 | FY 2001 | FY 2000 | FY 1999 |
|-----------------------------|---------|---------|---------|---------|---------|---------|---------|---------|
| 1-800 Complaint Calls (All) | 6554    | 6,543   | 7799    | 7638    | 6,031   | 6,876   | 10,116  | 8,868   |
| Complaint Forms Sent (All)  | 5306    | 5,416   | 6688    | 8716    | 8,159   | 8,542   | 9,008   | 8,262   |

xxv

A dilemma arises with the TMB panel having sole discretion in executing an Agreed Board Order, as well as sole discretion in grant or denial of a petition for termination. Though not completely arbitrary and capricious with their decisions, there is no definitive pattern of when and how a petitioner may be granted termination by a TMB panel.(xvi)

In criminal proceedings the burden of proof is on the prosecutors to show beyond a reasonable doubt that the defendant committed the crime. In an informal ISC hearing, the burden of proof is on the petitioning doctor to show beyond what the TMB panel feels is enough substantial evidence. This creates uncertainty in the *evidentiary* process of petitioning for termination of an Agreed Board Order. A physician can never be fully prepared when going against the TMB.

**Update Including 2007**

| <b>INVESTIGATIONS SECTION</b>   | <b>FY 2007</b> | <b>FY 2006</b> |
|---------------------------------|----------------|----------------|
| <b>Current Investigations</b>   | 1318           | 1156           |
| Physician                       | 1268           | 1116           |
| <b>Investigations Opened</b>    | 2,593          | 2,032          |
| Physician                       | 2486           | 1954           |
| <b>Investigations Completed</b> | 2550           | 1866           |
| Physician                       | 2441           | 1803           |

xxvii

| <b>BOARD DECISIONS AND PENALTIES</b> | <b>FY 2007</b> | <b>FY 2006</b> |
|--------------------------------------|----------------|----------------|
| <b>Total Disciplinary Decisions</b>  | <b>311</b>     | <b>335</b>     |
| Termination Requests Granted         | 21             | 31             |
| Termination Requests Denied          | 6              | 18             |
| Suspensions                          | 13             | 22             |

xxviii

Many interesting changes occurred in 2007. The TMB worked double-duty increasing the number of investigations opened and completed in a single year without any significant increase in funding or workforce. Although 2007 had a record number of investigations, fewer disciplinary decisions were imposed than in 2006. xxix Good news for the physicians who are currently under an Agreed Board Order, in 2007, the percentage of termination requests granted increased to 77.5% from 63.27% in 2006. xxx No one knows the reason for the delineation from a trend of increasing punishments with the TMB. Perhaps the TMB's leniency stems from the legislative hearing in October 2007 that criticized the harshness and unfairness with investigating anonymous complaints. xxxi On the other hand, the recent TMB's clemency could have been in anticipation of the lawsuit that the AAPS filed against them in late 2007. xxxii

**Conclusion**

Successfully arguing for termination of an Agreed Board Order is never a sure bet. The quantity of *factual* evidence that must be asserted to terminate an Agreed Board Order fluctuates with each individual case before the TMB panel. Therefore, a physician who desires to successfully petition and receive termination of an Agreed Order must be totally and fully prepared with competent and persuasive arguments and evidence to present to the TMB panel. Though not impossible, the TMB's history shows that the more prepared, humble and persuasive a physician appears, the more likely he will achieve the desired result: successful termination of the Agreed Order.

(i)22 Tex. Admin. Code §187.16 (2006)

(ii) See Texas State Board of Medical Examiners, Compliance Statistics, Sept. 4, 2007. (available online at <http://www.tmb.state.tx.us/agency/statistics/enforce/comp.php>) (335/99= 3.38)

(iii) See Texas State Board of Medical Examiners, Compliance Statistics, Sept. 4, 2007. (available online at <http://www.tmb.state.tx.us/agency/statistics/enforce/comp.php>) (1-31/44= 29.55%)

(iv) Texas State Board of Medical Examiners, Compliance Statistics, Sept. 4, 2007. (available online at <http://www.tmb.state.tx.us/agency/statistics/enforce/comp.php>)

(v) Texas State Board of Medical Examiners, Medical Board Decisions, Sept. 4, 2007. (available online at <http://www.tmb.state.tx.us/agency/statistics/enforce/mbd.php>)

(vi) 22 Tex. Admin. Code §187.43 (2006)

(vii) *Id.*

(viii) 22 Tex. Admin Code §187.59 (2004)

(ix) 22 Tex. Admin. Code §187.43 (a) (2006)

(x) *Id.*

(xi) 22 Tex. Admin. Code §187.43 (d) (2006)

(xii) See physician histories for Williams B. Burrows, D.O. (terminating the Order because it would save the state of Texas money and resources); Erik T. Shaw, D.O. (terminating the Order because it would save the state of Texas time and resources); William A. Bilsing, M.D. (terminating the Order because it would save the state of Texas time and resources); Luis E. Zepeda, M.D. (terminating the Order because it would save the state of Texas time and resources)

(xiii) See physician histories for Dong S. Kim, M.D. (terminating the Order because physician has served 14 months of the three-year Order); Leo L. Altenberg, M.D. (terminating the Order because physician has served two years and one month of Agreed Order); Randal L. Fielder, M.D. (terminating the Order because physician has served one year and three months of his two-year probation); Stephen Edward Guilliams, M.D. (terminating the Order because physician has served three years and eight months of his five-year probation); Maurice J. Ende, M.D. (terminating the Order because physician has served two years and four months of his three-year probation); William H. McCrae, M.D. (terminating the Order because physician has served 18 months under the order); William C. Brown, M.D. (terminating the Order because physician has served two years and seven months of his ten-year probation.); Erik W. Felton, M.D. (terminating the Order because physician has served over three years of his five-year probation); William J. Dickey, M.D. (terminating the Order because physician has severed in excess of 21 months of his two-year probation); Julio Arauz, M.D. (terminating the Order because physician has served nearly 20 months of the three-year Order); Salvador Baylan, M.D. (terminating the Order because physician has served four years and four months of five-year Order); Castilla A. Darby, Jr., M.D. (terminating the Order because physician has served seven years under the ten year order.); Jacques A. Roy, M.D. (terminating the Order because physician has served four years and three months of the five-year Order); Stewart R. Keller, D.O. (terminating the Order because physician has served four years of his five-year probation)

(xiv) See physician histories for Tommy E. Swate, M.D. (terminating the Order because physician has routinely exceeded the amount of Continuing Medical Education (CME) required by the Order and has completed numerous overseas mission trips during which time he has functioned in a medical role); Jack M. Thomas, Jr., M.D. (terminating the Order because physician has completed in excess of 150 CME hours);

(xv) See physician histories for Richard G. Buch, M.D. (thanking the Board for allowing him to practice medicine while under the Order); Nandlal Patel, M.D. (providing he is grateful to have received guidance from the Board and the, chart monitor)

(xvi) See physician histories for Francisco I. Pena, M.D. (denied because he was only 2 years into an 8 year Order); Williams B. Burrows, D.O (denied because it was too soon to let his license free and clear); James M. Stanton, M.D. (denied because too soon to let his license be free and clear); George R. Smith, Jr., M.D. (denied because he was only 3 years into a 5 year order); Randy Ramahi, D.O. (indefinite agreed Order date, one year too soon); *Contra* physician history for Jairo Rafael Olivares M.D. (finding the Order does not have a termination date. A fair reading of the Order suggests that the Order was to terminate after one year)

(xvii) 22 Tex. Admin. Code §179.7 (2003)

(xviii) *Id.*

(xix) *Id.*

(xx) See physician histories for Nat B. Baumer, M.D. (finding he successfully argued the exception rule because of constant and public ridicule by the media)

(xxi) See Texas State Board of Medical Examiners, Investigation Statistics, Sept. 4, 2007. (available online at <http://www.tmb.state.tx.us/agency/statistics/enforce/inv.php>) (showing there were approximately 17,130 complaints resulting in 99 disciplinary decisions. Contrasted to 2006, there were approximately 11,860 complaints resulting in 335 disciplinary decisions)

(xxii) *Id.*

(xxiii) See Texas State Board of Medical Examiners, Texas Medical Board Biographies, Sept. 4, 2007. (available online at <http://www.tmb.state.tx.us/boards/mbbios.php>) (showing that the “public” members of the medical board do not necessarily have any medical or legal training)

(xxiv) Texas State Board of Medical Examiners, Compliance Statistics, Sept. 4, 2007. (available online at <http://www.tmb.state.tx.us/agency/statistics/enforce/comp.php>)

(xxv) Texas State Board of Medical Examiners, Investigation Statistics, Sept. 4, 2007. (available online at <http://www.tmb.state.tx.us/agency/statistics/enforce/inv.php>)

(xxvi) See 22 Tex. Admin Code §187.59 (2004)

(xxvii) Texas State Board of Medical Examiners, Investigation Statistics, Mar. 14, 2008. (available online at <http://www.tmb.state.tx.us/agency/statistics/enforce/inv.php>)

(xxviii) Texas State Board of Medical Examiners, Investigation Statistics, Mar. 14, 2008. (available online at <http://www.tmb.state.tx.us/agency/statistics/enforce/mbd.php>)

(xxix) Texas State Board of Medical Examiners, Investigation Statistics, Mar. 14, 2008. (available online at <http://www.tmb.state.tx.us/agency/statistics/enforce/inv.php>)

(xxx) Texas State Board of Medical Examiners, Investigation Statistics, Mar. 14, 2008. (available online at <http://www.tmb.state.tx.us/agency/statistics/enforce/mbd.php>) (31/49= .63265 and 21/27= .7777)

(xxxi) Texas Medical Board Hearings - Texas House of Representatives, Mar. 14, 2008. (available online at <http://www.aapsonline.org/tmb.php>)

(xxxii) DOCTORS SUE TEXAS MEDICAL BOARD FOR MISCONDUCT - Cites institutional culture of retaliation & intimidation, Mar. 14, 2008. (available online at <http://www.aapsonline.org/newsoftheday/004>)