

Cynthia Marcotte Stamer, P.C. SOLUTIONS LAWYER™

Cynthia Marcotte Stamer
Board Certified – Labor and Employment Law
Texas Board of Legal Specialization
Direct Telephone: (972) 588.1860
Mobile Telephone: (469) 767.8827
Facsimile: (469) 814-8382
E-Mail: cstamer@solutionslawyer.net

Helping Management Manage

Primary Office
6633 Dallas Parkway, Suite 600
Addison, Texas 75001
Plano Office
3948 Legacy Drive
Suite 106, Box 397
Plano, Texas 75023

Texas Suspension of Doctor, Pharmacy Highlights Pain Management Prescribing Risks

On January 14, 2011, a disciplinary panel of the Texas Medical Board (TMB) temporarily suspended the medical license of Julia Renee Ward, M.D., Lic. No. M5571, of Houston, after determining that Dr. Ward's continuation in the practice of medicine presents a continuing threat to the public welfare. Physicians, pharmacists and others involved in pain treatment should resist the temptation to allow the allegations of extreme misconduct by Ward, others to blind them to the need for special precautions when prescribing or administering pain management or other controlled substance treatments.

Ward Pain Management Suspension

According to a January 18, 2011 TMB Press Release, TMB issued the Order of Temporary Suspension (Without Notice of Hearing) based on Dr. Ward's operation of a pain management clinic, Tejas Urgent Care Clinic, without the certification required by law; failure to practice medicine in an acceptable, professional manner; inappropriate prescribing of controlled substances; and unprofessional or dishonorable conduct. The suspension took immediate effect. Previously, the medical board denied certification of Tejas Clinic, located on West Little York Road in Houston, based on the clinic's partial ownership by a non-physician.

According to the Press Release, TMB and Texas State Board of Pharmacy investigators staked out the clinic and observed several vehicles, some with out-of-state license plates, dropping off and picking up small groups of patients throughout the day. TMB says investigators observed four men who appeared to be patrolling the parking lot, directing patients to Tejas Clinic and H&W Pharmacy. Investigators reported the dropped-off patients would enter the clinic, exit about 20 minutes later, and then go to the pharmacy next door, H&W Pharmacy, to fill their prescriptions. Most of the prescriptions written by Dr. Ward were for hydrocodone, and a large number of prescriptions were for Xanax and Soma as well. The three drugs are a well-known combination commonly abused and diverted for sale to addicts.

According to the TMB Press Release, H&W Pharmacy's license has since been suspended by the Texas State Board of Pharmacy, as has the license of H&W pharmacist Victor Egbulefu.

The Temporary Suspension Hearing Without Notice took place under the Board's authority, granted by the Medical Practice Act, to suspend or restrict a physician's license without notice when it determines the physician's continuation in practice would constitute a continuing threat to the public welfare. Under TMB procedures, Ward has the opportunity to have a Temporary Suspension Hearing With Notice at least 10 days after notice of the suspension.

Physician Precautions Recommended For Pain Management Activities

Physicians and other health care providers should not allow the egregiousness of allegations underlying suspensions like those alleged committed by Ward to blind them to the importance of exercising special care when engaging in pain management activities. While medical practitioners, medical boards, the Drug Enforcement Agency, accreditation agencies and others increasingly recognize the appropriateness and need for legitimate pain management, physicians, pharmacies and others prescribing and delivering pain management must conduct these activities in a defensible manner. Physicians prescribing pain management remain accountable for demonstrating and documenting the therapeutic appropriateness of prescribed management including appropriate procedures to monitor and redress potential concerns about patient medication abuse or addition. See Texas Medical Board Rules §§ 170.1-170.3. As many pain management medications both are controlled substances, physicians prescribing these medications often must comply with special prescribing, documentation and other requirements under DEA, state medical board and other rules and ethical standards. See, e.g., [DEA Cautions Practitioners Must Restrict Delegation of Controlled Substance Prescribing](#).

Missteps by providers in the prescription, documentation, or administration of pain management or other controlled substance prescriptions and treatment are frequently the basis of medical board and other disciplinary actions and civil, criminal and administrative enforcement actions by the Justice Department, DEA, Department of Health &

Human Services and others. See e.g., [Quality, Recordkeeping & Unprofessional Conduct Lead Reasons For Medical Board Discipline of Physicians](#); [Texas Pain Management Physician and Psychiatrist Arrested on Federal Health Care Fraud Indictment](#); [Pain and The Law](#).

To defend against these and other exposures, physicians and practices, pharmacies and pharmacists, and the hospitals and other organizations involved in the operation or management of physicians or pharmacists prescribing or dispensing pain management treatments should implement written delegation policies and other procedures to facilitate their ability to withstand Drug Enforcement Agency (DEA), medical board and other scrutiny and defend against a claim of improper conduct. As part of these efforts, prescribing practitioners should consider include:

- Carefully and fully document the therapeutic need and appropriateness of the prescribed treatment including the medical justification, patient counseling, adherence to DEA and other standards and procedures, and monitoring for effectiveness, patient compliance and potential patient abuse.
- Strictly complying with DEA requirements when prescribing controlled substances;
- Ensure appropriate and well-documented physician assessment of patient pain and pain management treatment;
- Abstain from or restrict delegation of pain management assessments or prescription of controlled substance except in strict and clearly documented compliance with DEA rules and all otherwise applicable regulations and care standards;
- Adopting and following written policies and procedures governing the prescription and handling of pain management and other controlled substances including the scope of allowable delegation of communication functions;
- Requiring physicians, pharmacists and others participating in pain management or other controlled substance ordering or treatment to participate in specific, documented training and enter into signed written agreements acknowledging knowledge of and agreement to comply with pain management, controlled substance and other relevant policies and requirements;
- Monitoring of prescribing and other dealings with controlled substances for potential noncompliance;
- Careful documentation of all activities involved with the prescription and handling of controlled substances or their prescriptions;
- Carefully restricting the individuals that with or without authorization could participate in the prescription or handling of controlled substance;
- Requiring drug and alcohol testing of physicians and other staff with involvement in the prescription or handling of controlled substance or who otherwise might be in a position to access the materials used in this process;
- Conducting appropriate training of DEA-authorized practitioners and their support staff regarding the appropriate procedures for handling and prescribing controlled substances;
- Conducting periodic background checks of physicians, pharmacists, staff and others who might participate in the prescription of or otherwise be in a position to access controlled substances or the tools for their access or prescription pursuant to written authorizations designed to comply with applicable Federal Trade Commission credit check and other relevant laws;
- Avoiding relationships and dealings involving prescribers, pharmacies, investors or others with questionable backgrounds or involving relationships that might create heightened exposures or appearances of impropriety; and
- Investigating and promptly redressing any known or suspected violation of DEA mandated or other policies regarding the prescription or handling of controlled substances.

For More Information Or Assistance

If you need assistance reviewing or responding to these or other health care related risk management, compliance, enforcement or management concerns, the author of this update, attorney Cynthia Marcotte Stamer, may be able to help. Vice President of the North Texas Health Care Compliance Professionals Association, Past Chair of the ABA Health Law Section Managed Care & Insurance Section and the former Board Compliance Chair of the National Kidney Foundation of North Texas, Ms. Stamer has more than 23 years experience advising health industry clients about these and other matters. Ms. Stamer has extensive experience advising and assisting health care providers and other health industry clients to establish and administer compliance and risk management policies and to respond to DEA and other health care industry investigation, enforcement and other compliance, public policy, regulatory, staffing, and other operations and risk management concerns. A popular lecturer and widely published author on health industry concerns, Ms. Stamer continuously advises health industry clients about compliance and internal controls, workforce and medical staff performance, quality, governance, reimbursement, and other risk management and operational matters. Ms. Stamer also publishes and speaks extensively on health and managed care industry regulatory, staffing and human resources, compensation and benefits, technology, public policy, reimbursement and other operations and risk management concerns including her highly popular programs on “Sex Drugs & Rock ‘N

Role: Managing Personal Misconduct in Health Care,” “Managing Physician Performance” and others.. Her insights on these and other related matters appear in the Health Care Compliance Association, Atlantic Information Service, Bureau of National Affairs, World At Work, The Wall Street Journal, Business Insurance, the Dallas Morning News, Modern Health Care, Managed Healthcare, Health Leaders, and a many other national and local publications. You can get more information about her health industry experience [here](#). If you need assistance with these or other compliance concerns, wish to inquire about arranging for compliance audit or training, or need legal representation on other matters please contact Ms. Stamer at (469) 767-8872 or via e-mail [here](#).

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- [President Signs Long-Sought Red Flag Rule Exemption Into Law](#)
- [Quality, Recordkeeping & Unprofessional Conduct Lead Reasons For Medical Board Discipline of Physicians](#)
- [CMS Finalizes Calendar Year 2011 Physician Fee Schedule & Other Medicare Part B Payment Policies](#)
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