

Health Law: Quality & Liability

Prof. Thaddeus Pope

Healthcare Licensing:
Discipline



Licensing:

Gatekeeping
Discipline



Discipline function of licensing



Not only assure
competence at **front**
end

But also weed out bad
apples **after** already
licensed



Bases for discipline



Medical board “triggers” from
other legal obligations

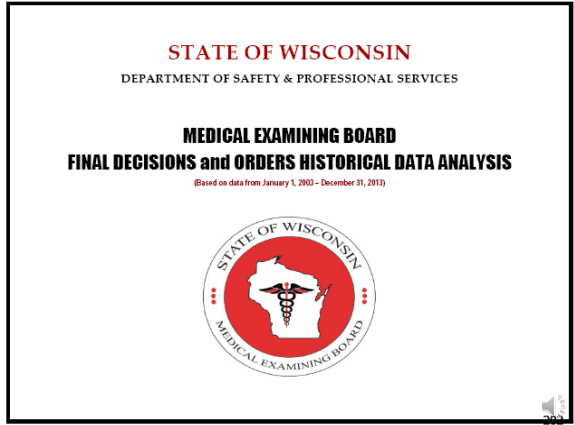
Malpractice

Abandonment

Informed consent



- Alcohol/drug
- Aiding unlicensed practice
- Incompetence
- Fail to report (crim, malpr, priv)
- Character
- Reciprocal



Med 10.03(2) Direct Patient Care Violations
Med 10.03(2)(d) Performing or attempting to perform any surgical or invasive procedure on the wrong patient, or at the wrong anatomical site, or performing the wrong procedure on any patient.

- Disciplinary
- **Maximum:** Surrender
 - **Minimum:** Reprimand

Total Discipline	2013	2012	2011	2010	2009	2008	2007	2006	2005	2004	2003
2 Reprimand								1			1
1 Reprimand*		1									
2 Reprimand, Limitation requiring education/testing*				1				1			
2 Surrender*	1					1					
Suspension (Stayed), Limitation requiring education/testing, mentor/supervision, reports, restricting practice*		1									
1 Suspension (Stayed), Limitation requiring treatment*							1				
9	Total	1	2	0	1	0	1	2	1	0	1

Types of discipline



900,000 physicians
1% disciplined each year

State Medical Board Actions	2012
Total state medical board actions	9,219
Board actions by category*	
License restricted	1,480
Reprimand	1,224
Fine	995
Administrative action	949
Probation	913
License suspended	907
CME required	819
License surrendered	511
Conditions imposed	465
License revoked	299
License denied	170
Other	487

Lust
Sloth
Envy
Anger
Gluttony
Greed
Pride

Professionalism



SOUTH METRO

Final Exit Network fined \$30,000 for assisting Apple Valley woman's suicide

Right-to-die group says it will appeal conviction over Apple Valley woman's suicide.

By Jessie Van Berkel (<http://www.startribune.com/jessie-van-berkel/280701532/>) Star Tribune |

AUGUST 24, 2015 — 10:54PM

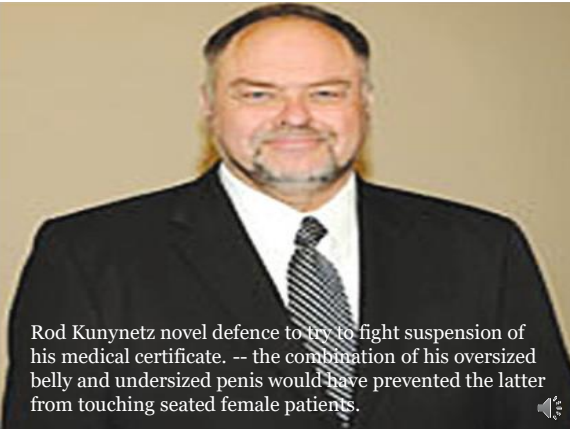
Character



Arthur K. Zilberstein - sexting during surgery

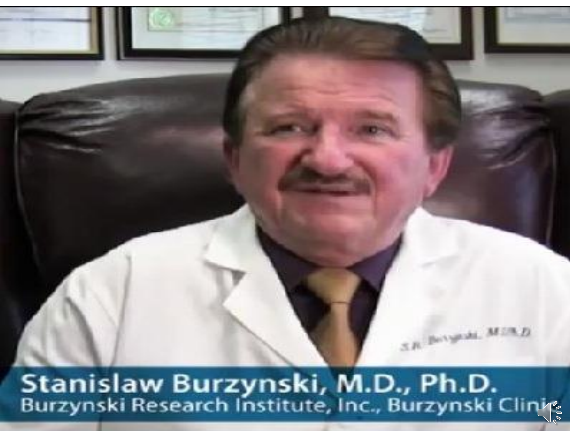


inadvertent exposure of (his) genitals during an attempt to scratch a severe itch,"



Rod Kunyetz novel defence to try to fight suspension of his medical certificate. -- the combination of his oversized belly and undersized penis would have prevented the latter from touching seated female patients.

Quack, greed, money



Stanislaw Burzynski, M.D., Ph.D. Burzynski Research Institute, Inc., Burzynski Clinic

Stanislaw Burzynski claims to have much better results treating deadly brain cancers than conventional oncology, even though he is not an oncologist

RECEIVED
STATE OFFICE OF
ADMINISTRATIVE HEARINGS

HEARING CONDUCTED BY THE 2016 FEB 10 AM 10:20
TEXAS STATE OFFICE OF ADMINISTRATIVE HEARINGS
SOAH DOCKET NO. 503-12-1342
LICENSE NO. D-9377

IN THE MATTER OF THE _____ BEFORE THE
COMPLAINT AGAINST: _____ TEXAS MEDICAL BOARD
STANISLAW R. BURZYNSKI, M.D. _____

FIRST AMENDED COMPLAINT

TO THE HONORABLE TEXAS STATE MEDICAL BOARD AND THE HONORABLE ADMINISTRATIVE LAW JUDGE TO BE ASSIGNED:

COMES NOW, the Staff of the Texas Medical Board (Board staff), and files this Complaint against Stanislaw R. Burzynski, M.D., (Respondent), based on Respondent's alleged violations of the Medical Practice Act (Act), Title 3, Subtitle B, Texas Occupations Code, and would show the following:

Crimes



“Need Addreall or Xanax? Let me know what you are willing to do in exchange... please send a pic.”

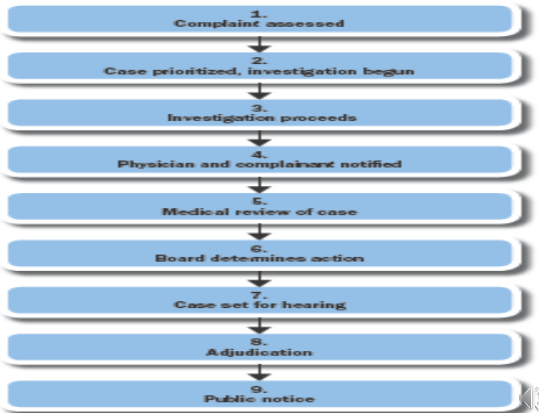
Convicted Chicago Aug. 2014

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CME required	819
License surrendered	511
Conditions imposed	465
License revoked	299
License denied	170
Other	487

Process for discipline

The **Medical Board** investigates, prosecutes, and decides

Physician can appeal Board's decision to **court**



Just as Medical Boards are not the only gate-keepers, they are not the only ones to impose sanctions

1

Hospitals

Restrict, revoke staff privileges

MCOs

Delist from network

2



Separate from license under state law

Decision about whether physician may participate in **federal healthcare programs**

Mandatory Exclusion

42 U.S.C. § 1320a-7(a)

1. Conviction of program-related crimes
2. Conviction relating to patient abuse
3. Felony conviction relating to health care fraud
4. Felony conviction relating to controlled substance

Permissive Exclusion

42 U.S.C. § 1320a-7(b)

1. Conviction relating to fraud
2. Conviction relating to obstruction of an investigation or audit
3. Misdemeanor conviction relating to controlled substance
4. License revocation or suspension

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3



American Board
of Medical Specialties

Higher standards. Better care.®

Allergy and Immunology
Anesthesiology
Colon and Rectal Surgery
Dermatology
Emergency Medicine
Family Medicine
Internal Medicine
Medical Genetics and Genomics
Neurological Surgery
Nuclear Medicine
Obstetrics and Gynecology
Ophthalmology
Orthopaedic Surgery
Otolaryngology
Pathology
Pediatrics
Physical Medicine and Rehabilitation
Plastic Surgery
Preventive Medicine
Psychiatry and Neurology
Radiology
Surgery
Thoracic Surgery
Urology

Physicians with an Active License to Practice Medicine in the United States and the District of Columbia, 2010 and 2012	2010		2012	
	Counts	Percentages	Counts	Percentages
Total	850,085	100.0%	878,194	100.0%
Degree Type				
Doctor of Medicine (MD)	789,788	92.9%	812,019	92.5%
Doctor of Osteopathic Medicine (DO)	58,329	6.9%	63,045	7.2%
Unknown	1,968	0.2%	3,130	0.4%
Certified by an ABMS Specialty Board				
Yes	633,733	74.5%	671,755	76.5%
No	216,352	25.5%	206,439	23.5%