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- TONY R. BERTOLINO, MANAGING PARTNER

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## Employee Spotlight

We warmly welcome **Blanca Madriz** to the **Legal Administrator** position for the Firm. Blanca brings her diverse experience and background in government and legislative policy analysis to bear on her duties for the Firm. She is a certified translator, which makes her especially adept and attentive to detail in various applications from editing documents to policies and procedures.

When she is not working for the Firm, or building her translation services career, Blanca actively supports community organizations such as Girl Forward and St. Louise House. Girl Forward provides mentorship to school-age refugee girls, while St. Louise House provides affordable housing and essential services to mothers and children afflicted by homelessness in Central Texas. Blanca is also dedicated to strengthening her yoga practice, with hopes of obtaining her yoga teaching certification this year.

## Common Trends in Texas Medical Board Disciplinary Actions

More than 230 physicians were disciplined by the [Texas Medical Board](#) (TMB) in

2016. To date in 2017, more than 60 physicians have been disciplined. Two of the common trends in TMB disciplinary actions are regarding quality of care violations and improper prescribing.

### *Quality of Care Violations*

At the March meeting, the TMB issued 8 Orders relating to quality of care violations. Many of these Orders require the licensee to have his or her medical practice monitored by another physician for a prescribed amount of time. The Orders also require mandatory continuing medical education hours in specified areas as well as other requirements. These disciplinary actions are now public record, are publicized in a TMB [Press Release](#), and will remain on the physician's public TMB profile. Further, failure to adhere to the terms of the TMB's Order may result in license suspension.

### *Improper Prescribing*

The Texas Medical Board Agency Strategic Plan: Fiscal Years 2015-2019 discusses the regulatory challenges regarding prescription drug abuse. The TMB recognizes the importance of prescribing pain medication for the treatment of "legitimate pain patients." The TMB states that its intent is to "protect the public and give guidance to physicians." Pain management clinics are highly regulated and closely monitored by the TMB. This heightened scrutiny puts physicians who work in pain management at increased risk of investigation by the TMB.

### **Avoiding Disciplinary Action by the TMB**

The best practice is to proactively reduce the likelihood of a TMB complaint being filed against you. Patients who feel heard and have their concerns addressed may be less likely file a complaint with the medical board. Being available to your patients and their families is one way to reduce the likelihood of them filing a TMB complaint against you. Hear your patients out, even if they are complaining. Let them feel heard, let their families feel heard. Be mindful to return phone calls and emails in a reasonable time. A breakdown in communication can lead to complaints, and even if unfounded, are serious and must be dealt with appropriately.

Also, ensure that each member of your staff is properly trained. Ensure they are aware of the office policies as well as all regulatory requirements to which they must adhere. It is not uncommon for complaints with the TMB to be due to actions taken (or not taken) by the medical practice's staff. Ensuring your staff understands their obligations and relevant regulations helps to reduce the likelihood of a patient lodging a complaint against you with the TMB.

If a complaint is filed against you, the best way to defend your license is to hire a medical license defense attorney. A complaint can tarnish your reputation that you worked so hard to build. Of course, a complaint may be baseless, or there may be extenuating circumstances. It is critically important that you take any complaint with the TMB seriously from the start and address the allegations head-on.

Here at [Bertolino LLP](#) we believe that immediately consulting an experienced medical license defense attorney to review allegations of misconduct helps ensure the most favorable outcome in your case. [Our results](#) speak for themselves.

[Bertolino LLP](#) represents licensed professionals across the entire State of Texas. If you are facing disciplinary action from a professional licensing board, [contact us](#)

## Hallmark Achievements | May 2017

*...Another Month of Impressive Results*

### ***Texas Real Estate Commission v. J.R.***

The Texas Real Estate Commission (TREC) sought to revoke our Client's real estate sales agent license, for a single non-violent felony, with substantial mitigating circumstances and evidence. Through compelling presentation of arguments at a final SOAH Hearing, the Firm persuaded an Administrative Law Judge (ALJ) to issue a proposal for decision (PFD), which contemplated permitting our Client to retain his license subject to probation for ten years. TREC improperly altered the PFD, so that it revoked instead of probating our Client's license. We presented a robust accounting of why what TREC did was a violation, and convinced a District Judge to restore our Client's license pursuant to a Temporary Injunction.

Take-away: We won our Client's license back through pendency of appeal to District Court, and thereby enabled him to earn a living and be with his children.

### ***Texas Board of Examiners of Psychologists v. J.G.***

Our Client, a recent Ph.D. Psychology graduate, applied for a provisional license to practice as a Psychologist. Due to a misunderstanding of disclosure obligations, our Client inadvertently completed the application improperly. The Board responded by demanding an explanation. We provided a wealth of evidence demonstrating that the failure to disclose was a good faith error, not a pre-meditated ploy, and that our Client possesses exceptional fitness and moral character. The Board dismissed the allegations completely, and permitted our Client to continue to the next phase of the application, without taking any adverse action.

Take-away: The Firm secured a dismissal with a single move.

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## Q & A

### **Q: Can I negotiate with the Board?**

**A:** Maybe. A license-holder can either attempt to negotiate on their own with the board or may hire an attorney to assist them. An experienced attorney may be able to assist you in negotiating better terms or the renewal of your license with no additional terms whatsoever.

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*"Our law firm helps professionals, like you, keep their licenses when those licenses are under attack by a state agency or board."*

*-Tony R. Bertolino, Managing Partner*

