

Administrative Case Law Update Supplement

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I. Introduction

This case law update includes many of the administrative law cases decided in Texas between May 2019 and July 2019. This is not an exhaustive review of all administrative law cases, nor do these synopses exhaustively cover all issues raised by these cases. We have attempted to choose cases representative of issues raised in Texas courts and to highlight the most salient points of each. Our views are not to be taken as the views of Texas Tech University School of Law and should not be interpreted as predictive of the result of future cases.

II. Agency Authority

III. Agency Interpretation of Statutes and Rules

Aleman v. Tex. Med. Bd., 573 S.W.3d 796 (Tex. 2019).

In 2011, a patient of Dr. Aleman’s died. The funeral director generated and signed the patient’s death certificate electronically; however, Dr. Aleman was not registered with the Texas Electronic Death Registration system (TEDR system), so the certificate was dropped to paper and sent to him for manual certification. Dr. Aleman received the paper certificate on July 29, and the certificate became “official” on August 8

when it was certified by the local registrar. On August 16, Dr. Aleman submitted an application to register with the TEDR system, and his application was approved and took effect three days later. After registering, Dr. Aleman attempted to certify the patient’s death certificate electronically, but the system would not allow him to do so because it had already become official.

Two years later, the Texas Medical Board filed a complaint with the State Office of Administrative Hearings (SOAH) seeking disciplinary action against Dr. Aleman for requiring a paper certificate rather than certifying the patient’s death through the TEDR system at the time. The Medical Board alleged that in failing to do so, Dr. Aleman had violated Health and Safety Code sections 193.002(4) and 193.005(h) as well as the Medical Practice Act. Dr. Aleman filed a motion to dismiss and a plea to the jurisdiction, arguing that the Board lacked subject matter jurisdiction because the complaint did not comply with the Medical Practice Act’s requirements. The administrative-law judge (ALJ) denied the motion. The ALJ found that Dr. Aleman did not violate Health and Safety Code section 193.002(4), but that he did violate section 193.005(h) by failing to complete the medical certification electronically. The ALJ further found that because the violation was related to his practice of medicine, he by definition violated the Medical Practice

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