

Administrative Case Law Update Supplement

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3311 18th St.

Lubbock, Texas 79409-0004

review.law@ttu.edu

SPEAKER

Laurie Ratliff

CONTRIBUTING AUTHORS

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Sara Jaeckle

Online Edition Editor

Tylynn R. Payne

Editor in Chief

Speaker Biography

Laurie Ratliff

Owner, Laurie Ratliff LLC
Post Office Box 5010, Austin, Texas 78763
laurie@laurieratliffllaw.com | 512 422 3946

Laurie Ratliff received her J.D. from the Texas Tech University School of Law in 1992, where she served as Research Editor on the *Texas Tech Law Review*. She received her B.B.A. from the University of Texas at Austin in 1989.

After law school, she served as a briefing attorney for Justice John T. Boyd in the Seventh Court of Appeals in Amarillo. Later, she was a staff attorney for the Third Court of Appeals in Austin.

Laurie is board certified in civil appellate law by the Texas Board of Legal Specialization and has been selected as a “Super Lawyer” by Thompson Reuters every year since 2005. A frequent speaker on court of appeals practice and trial procedure, Laurie has written a monthly column commenting on recent Third Court of Appeals’ opinions for the *Austin Lawyer* magazine since 2001.

In addition to her legal work, Laurie serves on the St. Andrew’s Episcopal School Board of Trustees and is an active volunteer at the school.

Student Author Biographies

Sara Jaeckle, J.D. Candidate 2020, is the Online Edition Editor for Volume 52 of the *Texas Tech Law Review*. She grew up in Austin, Texas and graduated from the University of Texas where she earned her Bachelor of Arts in English. Sara serves as a member of the Board of Barristers and represents Texas Tech on the ABA National Arbitration team. Sara is primarily interested in immigration and criminal law, and trial and appellate litigation.

Tylynn R. Payne, J.D. Candidate 2020, is the Editor-in-Chief for Volume 52 of the *Texas Tech Law Review*. Tylynn grew up in Roswell, New Mexico. She graduated from Tarleton State University in Stephenville, Texas where she earned a Bachelor of Science in Political Science in 2016. Tylynn serves as a member on the Board of Barristers, and she represents Texas Tech School of Law as an oralist at national Moot Court competitions. Tylynn’s primary areas of interest include corporate and securities law, agribusiness and water law, and trial and appellate litigation.

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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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