LICENCE NO. L-0318

IN THE MATTER OF

THE LICENSE OF

JAMES KEVIN KAUFMAN, M.D.

BEFORE THE

TEXAS MEDICAL BOARD

AGREED ORDER

On the 28th day of August, 2015, came on to be heard before the Texas Medical Board (the Board), duly in session, the matter of the license of James Kevin Kaufman, M.D. (Respondent).

On October 21, 2014, Respondent appeared in person, with counsel John McChristian, at an Informal Show Compliance Proceeding and Settlement Conference (ISC) in response to a letter of invitation from the staff of the Board. The Board's representatives were Karl Swann, M.D., a member of the Board and Nancy Seliger, a member of a District Review Committee ("Panel"). Lee Bukstein represented Board staff.

BOARD CHARGES

Board staff charged that Respondent was denied privileges at University General Hospital Dallas due to an alleged discrepancy on his application, resulting in the Respondent's privileges being terminated in February 2014.

BOARD HISTORY

Respondent has previously been the subject of disciplinary action by the Board.

The Board entered an Agreed Order on April 11, 2008, due to Respondent's failure to timely release medical records and ordered the Respondent to attend a five hour course in medical record keeping and pay $500.00 administrative penalty for disruptive behavior and $500.00 for the medical records release issue.
Upon the recommendation of the Board's representatives and with the consent of Respondent, the Board makes the following Findings and Conclusions of Law and enters this Agreed Order.

FINDINGS

The Board finds the following:

1. **General Findings:**
   A. Respondent received all notice required by law. All jurisdictional requirements have been satisfied. Respondent waives any defect in notice and any further right to notice or hearing under the Medical Practice Act, Title 3, Subtitle B, Texas Occupations Code (the Act) or the Rules of the Board.
   B. Respondent currently holds Texas Medical License No. L-0318. Respondent was originally issued this license to practice medicine in Texas on August 26, 2000. Respondent is not licensed to practice in any other state.
   C. Respondent is primarily engaged in the practice of neurosurgery. Respondent is not board certified by a member board of the American Board of Medical Specialties.
   D. Respondent is 50 years of age.

2. **Specific Panel Findings:**
   A. Respondent failed to remove website entries stating the Respondent was board certified in neurosurgery for the eight months after his neurosurgery specialty certification had expired.
   B. On February 28, 2014, the University General Hospital Dallas notified Respondent that the Medical Executive Committee (MEC) met on February 27, 2014, and ruled that Respondent failed to disclose information relating to the Texas Commissioner of Worker's Compensation (TCWC) action to remove Respondent from participating as a health care practitioner or designated doctor. The MEC decided that Respondent shall not participate in treating, examining, and/or consulting with other physicians regarding injured employees who are covered under the Texas Worker's Compensation system. The University
General Hospital Dallas terminated Respondent's privileges as of February 27, 2014.

C. On June 3, 2014, Respondent affirmed to question #10B of the Medical Practice Questionnaire (MPQ), "Are you Board certified?" stating on #10C "American Board of Neurological Surgery".

D. Respondent did not have a current board certification during the time that he indicated on his website: http://jkkspine.com/, under the Respondent's bio section that he was "Board certified, November 2003".

3. Mitigating Factors:
   In determining the appropriate sanctions in this matter, the Panel considered the following mitigating factors:

   A. Respondent is still a member of the American Association of Neurological Surgeons (AANS) and is taking examinations for his re-certification within the next few months.

   B. Respondent did not intentionally falsely advertise his Board certification.

   C. Respondent immediately removed the representations regarding his board certification when they were called to his attention.

   D. Respondent has cooperated in the investigation of the allegations related to this Agreed Order. Respondent neither admits nor denies the information given above. To avoid further investigation, hearings, and the expense and inconvenience of litigation, Respondent agrees to the entry of this Agreed Order and to comply with its terms and conditions.

CONCLUSIONS OF LAW

Based on the above Findings, the Board concludes that:

1. The Board has jurisdiction over the subject matter and Respondent pursuant to the Act.
2. Section 164.051(a)(1) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent’s commission of an act prohibited under Section 164.052.

3. Section 164.051(a)(3) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent’s violation of a Board rule, specifically Board Rule Rules 164.4, advertising of “board certification.”

4. Section 164.052(a)(7) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent’s use of an advertising statement that is false, misleading or deceptive.

5. Section 164.001 of the Act authorizes the Board to impose a range of disciplinary actions against a person for violation of the Act or a Board rule.

6. Section 164.002(a) of the Act authorizes the Board to resolve and make a disposition of this matter through an Agreed Order.

ORDER

Based on the above Findings and Conclusions of Law, the Board ORDERS that Respondent shall be subject to the following terms and conditions:

1. Respondent shall correct the advertisement and representations in all websites, including those websites for which he controls the content, regarding his board certification(s) within two weeks of the date of the entry of this Order. Respondent shall notify the Compliance Department in writing within 10 days if he experiences any difficulty in making those corrections.

2. Within one year from the date of the entry of this Order, Respondent shall enroll in and successfully complete a total of eight hours of continuing medical education ("CME"), approved for Category I credits by the American Medical Association, in the topic of ethics or risk management, approved in writing in advance by the Executive Director or their designee. To obtain approval for a course, Respondent shall submit in writing to the Compliance Division of the Board information on the course, to include at least a reasonably detailed description of the course content and faculty, as well as the course location and dates of instruction.
Respondent shall submit documentation of attendance and successful completion of this requirement to the Compliance Division of the Board on or before the expiration of the time limit set forth for completion of the course. The CME requirements set forth in this paragraph shall be in addition to all other CME required for licensure maintenance.

3. At all times while Respondent is under the terms of this Order, Respondent shall give a copy of this Order to all hospitals, nursing homes, treatment facilities, and other health care entities where Respondent has privileges, has pending an application for privileges, applies for privileges, or otherwise practices. Within 30 days of being first contacted by the Compliance Division of the Board following entry of this Order, Respondent shall provide to the Compliance Division of the Board

4. The time period of this Order shall be extended for any period of time that: (a) Respondent subsequently practices exclusively outside the State of Texas; (b) Respondent's license is subsequently cancelled for nonpayment of licensure fees; (c) this Order is stayed or enjoined by Court Order; or (d) for any period of time longer than 60 consecutive days that Respondent does not actively practice medicine. If Respondent leaves Texas to practice elsewhere or ceases active practice for more than 60 consecutive days, Respondent shall immediately notify the Board in writing. Upon Respondent's return to active practice or return to practice in Texas, Respondent shall notify the Board in writing. When the period of extension ends, Respondent shall be required to comply with the terms of this Order for the period of time remaining on the Order. Respondent shall pay all fees for reinstatement or renewal of a license covering the period of extension or tolling.

5. Respondent shall comply with all the provisions of the Act and other statutes regulating Respondent's practice.

6. Respondent shall fully cooperate with the Board and the Board staff, including Board attorneys, investigators, compliance officers, consultants, and other employees or agents of the Board in any way involved in investigation, review, or monitoring associated with Respondent's compliance with this Order. Failure to fully cooperate shall constitute a violation of this order and a basis for disciplinary action against Respondent pursuant to the Act.

7. Respondent shall inform the Board in writing of any change of Respondent's office or mailing address within 10 days of the address change. This information shall be submitted to the Registration Department and the Compliance Department of the Board. Failure to provide such
information in a timely manner shall constitute a basis for disciplinary action by the Board against Respondent pursuant to the Act. Respondent agrees that 10 days notice of a Probationer Show Compliance Proceeding to address any allegation of non-compliance of this Agreed Order is adequate and reasonable notice prior to the initiation of formal disciplinary action. Respondent waives the 30-day notice requirement provided by §164.003(b)(2) of the Medical Practice Act and agrees to 10 days notice, as provided in 22 Texas Administrative Code §187.44(4).

8. Any violation of the terms, conditions, or requirements of this Order by Respondent shall constitute unprofessional conduct likely to deceive or defraud the public, or to injure the public, and shall constitute a basis for disciplinary action by the Board against Respondent pursuant to the Act.

9. Respondent shall be permitted to supervise and delegate prescriptive authority to physician assistants and advanced practice nurses and to supervise surgical assistants.

10. The above-referenced conditions shall continue in full force and effect without opportunity for amendment, except for clear error in drafting, for one year following the date of the entry of this Order. If, after the passage of the one-year period, Respondent wishes to seek amendment or termination of these conditions, Respondent may petition the Board in writing. The Board may inquire into the request and may, in its sole discretion, grant or deny the petition without further appeal or review. Petitions for modifying or terminating may be filed only once a year thereafter.

RESPONDENT WAIVES ANY FURTHER HEARINGS OR APPEALS TO THE BOARD OR TO ANY COURT IN REGARD TO ALL TERMS AND CONDITIONS OF THIS AGREED ORDER. RESPONDENT AGREES THAT THIS IS A FINAL ORDER.

THIS ORDER IS A PUBLIC RECORD.
I, JAMES KEVIN KAUFMAN, M.D., HAVE READ AND UNDERSTAND THE
FOREGOING AGREED ORDER. I UNDERSTAND THAT BY SIGNING, I WAIVE
CERTAIN RIGHTS. I SIGN IT VOLUNTARILY. I UNDERSTAND THIS AGREED ORDER
CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF
NY KIND, VERBAL, WRITTEN OR OTHERWISE.

DATED: July 10, 2015.

JAMES KEVIN KAUFMAN, M.D.
Respondent

STATE OF Texas §
COUNTY OF Tarrant §

SWORN TO AND ACKNOWLEDGED BEFORE ME, the undersigned Notary Public, on this
10 day of July, 2015.

(Notary Seal)

Signature of Notary Public

(SIGNATURE PAGE FOLLOWS)
SIGNED AND ENTERED by the presiding officer of the Texas Medical Board on this 28 day of August, 2015.

Michael Arambula, M.D., Pharm. D., President
Texas Medical Board